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Electricity Market Act¹

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RT I 2003, 25, 153
entry into force in accordance with § 119.

Amended by the following acts

Passed	Published	Entry into force
10.03.2004	RT I 2004, 18, 131	15.04.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
08.12.2004	RT I 2004, 86, 583	01.01.2005, in part 01.05.2005
07.12.2006	RT I 2006, 58, 439	01.01.2007
15.02.2007	RT I 2007, 23, 120	01.05.2007, in part 01.01.2009 and 01.01.2010
22.11.2007	RT I 2007, 66, 408	01.01.2008
12.11.2008	RT I 2008, 51, 282	19.12.2008
17.12.2008	RT I 2009, 5, 34	22.01.2009
18.06.2009	RT I 2009, 35, 232	06.07.2009, in part 01.07.2014
15.06.2009	RT I 2009, 39, 262	24.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
27.01.2010	RT I 2010, 8, 37	27.02.2010
28.01.2010	RT I 2010, 8, 40	27.02.2010, in part 01.04.2010, 01.07.2010 and 03.03.2011
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of paragraph 2 of Article 140 of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).
10.06.2010	RT I 2010, 41, 241	01.08.2010
03.08.2010	RT I 2010, 56, 363	01.11.2010
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force amended to 01.07.2014 [RT I, 22.12.2013, 1]
23.11.2011	RT I, 12.12.2011, 2	01.01.2012 and 01.01.2014; date of entry into force in part amended to 01.07.2014 [RT I, 22.12.2013, 1]
06.06.2012	RT I, 28.06.2012, 1	08.07.2012, in part 01.07.2012, 01.01.2013, 01.03.2013 and 01.01.2014; date of entry into force in part amended to 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 2	23.03.2014
19.02.2014	RT I, 13.03.2014, 3	01.01.2018, in part 23.03.2014

19.02.2014	RT I, 13.03.2014, 4	01.07.2014
17.04.2014	RT I, 06.05.2014, 2	07.05.2014, in part 01.07.2014 and 01.01.2015
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
01.07.2014	RT I, 12.07.2014, 3	22.07.2014, in part 01.07.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced on the basis of subsection 4 of § 107 ³ of the Government of the Republic Act
18.02.2015	RT I, 23.03.2015, 3	01.07.2015
18.02.2015	RT I, 23.03.2015, 4	01.07.2015
11.06.2015	RT I, 30.06.2015, 4	01.09.2015, in part 01.07.2015
16.06.2016	RT I, 05.07.2016, 3	15.07.2016, in part 01.01.2017
15.06.2016	RT I, 05.07.2016, 1	01.01.2017
27.10.2016	RT I, 10.11.2016, 1	01.01.2017
18.01.2017	RT I, 25.01.2017, 1	01.03.2017
08.02.2017	RT I, 03.03.2017, 1	01.07.2017
14.06.2017	RT I, 30.06.2017, 2	01.07.2017, in part 10.07.2017
06.06.2018	RT I, 29.06.2018, 1	01.07.2018
06.06.2018	RT I, 29.06.2018, 2	09.07.2018, in part 01.01.2019 and 27.04.2019
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
30.01.2019	RT I, 22.02.2019, 1	01.10.2019
20.02.2019	RT I, 13.03.2019, 2	15.03.2019
17.06.2020	RT I, 30.06.2020, 9	01.07.2020
29.09.2021	RT I, 22.10.2021, 1	01.11.2021
08.12.2021	RT I, 30.12.2021, 1	01.01.2022
23.02.2022	RT I, 10.03.2022, 2	01.01.2024
23.02.2022	RT I, 15.03.2022, 2	25.03.2022, in part 01.05.2022
13.04.2022	RT I, 27.04.2022, 1	07.05.2022
04.05.2022	RT I, 18.05.2022, 1	28.05.2022
19.07.2022	RT I, 09.08.2022, 2	01.09.2022
15.09.2022	RT I, 22.09.2022, 1	23.09.2022, in part 01.05.2026
19.10.2022	RT I, 22.10.2022, 4	23.10.2022, in part 01.01.2024

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of this Act

(1) This Act governs the generation, storage, transmission, sale, export, import and transit of electricity and the economic and technical management of the power system. This Act prescribes the principles of the functioning of the electricity market, based on the need to ensure an effective supply of electricity which is provided at a reasonable price and which meets environmental requirements and the needs of consumers, and the utilisation of energy sources in a balanced manner, in an environmentally clean way and with a long-term perspective.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) The activities mentioned in subsection 1 of this section are carried out observing the principles of cooperation, equal treatment and transparency.

(2¹) An electricity undertaking pays a regulatory enforcement fee on the grounds and in accordance with the rules provided by the Competition Act.

[RT I, 30.12.2021, 1 – entry into force 01.01.2022]

(3) Electricity undertakings facilitate consumer action to save electricity.

(4) The provisions of the Administrative Procedure Act apply to administrative proceedings provided by this Act without prejudice to special rules provided by this Act.

(5) This Act, with the exception of §§ 58–59⁶, 92⁵, 108, 108¹ and subsection 3 of § 111³, does not apply to power stations that are not connected to the network.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 2. Planning for development of electricity sector

[Repealed – RT I, 13.03.2014, 2 – entry into force 23.03.2014]

§ 3. Definitions

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

The terms in this Act are defined as follows:

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

1) ‘emergency reserve power station’ means a power station where electricity is generated in the case of an unexpected shutdown of a production or transmission capacity of the system or of the power system of another country which is electrically connected to the system or in the event of a threat to the security of supply of the system;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

1¹) ‘open supply’ means the sale to a market participant of the total amount of electricity needed by the market participant or, in order to ensure the balance of a market participant, the sale to the market participant of an amount of electricity that the participant lacks in a trading period or the purchase from the market participant of surplus amount of electricity during a trading period;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

1²) ‘aggregator’ means a person who provides aggregation services and who, at the same time, may be a seller or a balance provider;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

1³) ‘aggregation’ means the activity consisting in combining the consumption load of consumers or the generation capacity of producers for sale or purchase in the electricity market;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

1⁴) ‘active user of network services’ means a consumer or a group of consumers who consume, store or sell electricity that has been generated on real property owned by them (hereinafter, ‘self-generated electricity’), or who provide flexibility services or use self-generated electricity for the purpose of improving the building’s energy performance – provided such an activity is not their principal business or profession;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

2) ‘balancing electricity’ means electricity which, for the purposes of maintaining a balance, is purchased and sold by the system operator under a balance agreement concluded with a balance provider;

3) ‘balance’ means equivalence between the amount of electricity purchased and/or supplied to the network by a market participant during a trading period and the amount of electricity sold and/or acquired from the network by the market participant during the trading period;

4) ‘balance settlement’ means determination of the balance by a method which permits, during every trading period, to state the balance for the market participant, to ascertain the amount of open supply and, where deviations from the balance are detected, to create a corresponding report;

5) ‘balance responsibility’ means the obligation of a market participant to ensure that the amount of electricity purchased and/or supplied to the network by the market participant during a trading period is equivalent to the amount of electricity sold and/or acquired from the network by the market participant during the trading period;

6) ‘balance agreement’ means an open supply contract between the system operator and a balance provider by which the system operator undertakes to sell to or purchase from the balance provider the amount of balancing electricity necessary to maintain its balance during each trading period;

7) ‘transmission’ means the transport of electricity in the network;

7¹) ‘power exchange’ means an organised market for trade in electricity to be supplied on the same or next day or within the hour;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

7²) ‘electricity market’ means a platform intended for trade in electricity, capacity and flexibility as well as ancillary services;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8) ‘power station’ means an operational assembly consisting of one or several generating installations which generates electricity, together with auxiliary equipment and civil engineering works;

[RT I 2007, 23, 120 – entry into force 01.05.2007]

8¹) ‘power plant own consumption’ means electricity which is required for the smooth functioning of the power plant and of the facilities and equipment attached thereto, including the electrical and lighting systems, control, safety and monitoring systems, accumulation devices, emergency sources of power, pumps, ventilators, conveyors, electric motors of fuel loading and preparation equipment and electric heating systems;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

8²) ‘storage of electricity’ means conversion of electricity into a form of energy which can be stored, the storing of such energy and its subsequent reversion into electricity or use as another energy carrier with the purpose of deferring the final use of electricity from the time of its generation to a later time or of optimising the load of the power system during the storage period;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8³) ‘electricity contract’ means a contract for the sale of electricity, except for contracts concerning electricity derivatives;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8⁴) ‘energy storage unit’, in an electrical installation, means a part of such an installation that is used for the storage of energy, including an electric vehicle recharging point that allows for bidirectional charging;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8⁵) ‘energy service provider’ means a provider of energy service within the meaning of clause 11 of § 2 of the Energy Sector Organisation Act;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8⁶) ‘energy efficiency’ means energy efficiency within the meaning of clause 12 of § 2 of the Energy Sector Organisation Act;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

9) ‘electrical installation’ means an installed operational assembly of equipment, conductors and accessories used to generate, transmit, convert, store, meter, sell or consume electricity;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

9¹) ‘import’ means the import of electricity from outside the European Economic Area or Swiss Confederation with the aim of selling or consuming electricity in Estonia;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

9²) ‘investment support’ means financial assistance, a loan granted on conditions more favourable than market conditions, surety or a financial guarantee or other State aid or *de minimis* aid granted to cover the cost of building or reconstruction of a generating installation or part of such an installation;

[RT I, 18.05.2022, 1 – entry into force 28.05.2022]

10) ‘distribution’ means the transmission of electricity via a distribution network;

11) ‘distribution network’ means a network which is not the transmission network;

12) ‘remote reading device’ means a metering device which records data regarding amounts of electricity by trading period and allows automatic transmission of such data without the need to physically access the metering device;

13) ‘trading period’ means the period of time which is provided by the network code on the functioning of the electricity market and during which a market participant is required to maintain its balance;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

13¹) ‘recharging point’ means an interface that allows, at a time, to recharge one electric vehicle or to exchange the battery of one such vehicle;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

14) ‘line’ means a part of a network that links specific points in the network;

15) ‘connection point’ means a specific, defined point where an electrical installation of a market participant and the network connect;

15¹) ‘metering point’ means a location where electricity passing through an electrical installation is measured;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

15²) ‘micro-undertaking’ means a company that has fewer than 10 employees and whose annual turnover or total balance sheet assets do not exceed two million euros;

[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

16) ‘metering device’ means an electricity meter together with instrument transformers and tariff switching devices;

17) ‘fixed supply’ means the sale to a market participant of a fixed amount of electricity which is agreed upon in advance for a trading period and of which the balance provider is informed in advance under the rules established in this Act and the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

18) ‘sale’ means the transfer of electricity to another person for a charge or without charge;

19) ‘net capacity’ means the maximum capacity that can be supplied to the network by a generating installation;

19¹) ‘availability of net capacity’ means the ability to supply net capacity to the network within 24 hours from the moment the corresponding order is issued by the system operator;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

20) ‘direct line’ means a line which is located in the service area of a network operator and which lacks a direct connection to the network, except for a closed distribution network, but which may be indirectly connected to the network through an electrical installation of a market participant and which serves to transmit electricity from a power station to another power station or to another market participant for its own consumption, resale or transmission;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

20¹) ‘flexibility service’ means a service that permits, in a cost-effective way, to reduce the need to increase or replace the throughput capacity of the network by expanding the electricity market, among others, to producers of electricity from renewable sources, to distributed producers, to market participants participating in demand response, to undertakings operating energy storage activities, to providers of reserve capacity required for system management and to aggregators;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

20²) ‘regional coordination centre’ means a regional coordination centre established under Article 35 of Regulation (EU) 2019/943 of the European Parliament and of the Council on the internal market for electricity (OJ L 158, 14.06.2019, pp. 54–124);

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

21) ‘transmission network’ means a national network with a voltage of at least 110 kV together with connections that have a voltage of over 10 kV with networks of other countries and together with other

electrical installations, including those operating on medium voltage, which are necessary to ensure the functioning, administration and development of the system as a whole and together with control, protection and communication systems which form a single economic entity;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

22) ‘regulating capacity’ means the capacity purchased under contracts entered into by the system operator, which the latter uses to increase or reduce generation and consumption in accordance with this Act and the legislation enacted under it and in accordance with contracts concluded by the system operator;

22¹) [Repealed – RT I, 18.05.2022, 1 – entry into force 28.05.2022]

22²) ‘closed distribution network’ means a network which is used to transmit electricity within limited production locations, commercial-purpose civil engineering works or joint services locations to commercial consumers that are located there and whose activities or production processes are interconnected for technical or safety-related reasons, or which is used to transmit electricity chiefly to the owner of the network or to the network operator who operates the network, or to any undertakings that are connected to the owner or network operator by means of control;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

22³) ‘non-frequency ancillary service’ means a service used by a network operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability and island operation capability;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

22⁴) ‘storage period’ means the period from 1 April to 31 March, during which the energy taken from and fed back into the network is deemed stored energy;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

22⁵) ‘associated undertaking’ means an undertaking in which another undertaking holds 20 per cent or more of the shareholders’ or members’ voting rights and over whose operating and financial policies that other undertaking exercises significant influence;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

23) ‘system’ means a technical system for the generation, storage and transmission of electricity, which is composed of power stations located in the territory of Estonia, of the network which connects the power stations to one another as well as consumers and the power systems of other countries, and the corresponding control, protection and communication systems;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

23¹) ‘place of consumption’ means a connection point of an electrical installation of a market participant, or a number of connection points which are connected to each other through an electrical installation of a market participant;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

23²) ‘balancing’ means the processes and actions mentioned in point 10 of Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

23³) ‘demand response’ means control of electricity consumption load that consists in a consumer’s independently changing their consumption or in an offer, made through an aggregator and accepted, to sell a reduction or increase in their consumption at the price offered by an organised market defined in point 4 of Article 2 of Commission Implementing Regulation (EU) No. 1384/2014 on data reporting implementing paragraphs 2 and 6 of Article 8 of Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (OJ L 363, 18.12.2014, pp. 121 –142);

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

24) ‘generation’ means the production of electricity. For the purposes of this Act, generation does not include the generation of electricity by a generating installation which has a total net capacity not exceeding 100 kW and which is not connected to the system;

24¹) [repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]

25) ‘generating installation’ means an electrical installation intended for the generation of electricity;

26) ‘transit’ means the transmission of electricity under a contract whereby the parties to the contract do not consume or generate transmitted electricity in Estonia;

26¹) [repealed – RT I, 05.07.2016, 3 – entry into force 01.01.2017]

26²) ‘ancillary service’ means a service required to operate the network, as well as balancing and non-frequency ancillary services except for congestion management;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

26³) ‘fully integrated network component’ means a component that has been integrated into the network and whose sole purpose consists in ensuring a secure and reliable functioning of the network and which is not used for the purposes of balancing, the covering of losses or congestion or frequency management;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

26⁴) ‘universal service’ means the sale, according to § 76⁵ of this Act, of electricity to a consumer of universal service within the territory of Estonia;

[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

27) ‘control’ means control of an undertaking as defined in the Competition Act;

28) 'security of supply' means the capability of the system to ensure that consumers are supplied with electricity in accordance with the requirements;

28¹) 'liquid biofuel' means liquid fuel derived from biomass and used for the generation of electricity; [RT I, 28.06.2012, 1 – entry into force 08.07.2012]

28²) 'vertically integrated undertaking' means an electricity undertaking which is or electricity undertakings which are controlled within the meaning of the Competition Act by one person or several persons and at least one of the tasks of which is transmission of electricity, while the other tasks include the generation or sale of electricity;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

29) 'network' means an electrical installation – or a part of such an installation – designed to convey electricity to the connection point of a consumer or of a producer;

30) 'grid code' or 'network code' means a legislative instrument mentioned in § 42 of this Act;

31) 'network service' means a service mentioned in subsection 1 of § 65 of this Act;

32) 'network connection' means an electrical connection between the network and another electrical installation;

33) 'connection to the network' means the establishment of a new network connection, or the modification of the conditions of consumption or any other technical conditions or an increase in the security of supply of an existing network connection;

34) 'use of a network connection' means the use of network services via a network connection;

34¹) 'small undertaking' means a company that has fewer than 50 employees and whose annual turnover or total balance sheet assets do not exceed 10 million euros;

[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

35) 'transmission' means the transport of electricity via the interconnected extra high-voltage or high-voltage network with the purpose of conveying electricity to a consumer or a distribution network operator, with the exception of sale;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

36) 'micro isolated network' means a network which is located in the service area of a distribution network operator, which belongs to that operator, which does not have an electrical connection to the system and in which consumption in 1996 was less than 1 gigawatt-hour (hereinafter, 'GWh').

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 4. Maintaining the security of supply

(1) The Government of the Republic may implement measures with regard to all market participants to maintain the security of supply during a defined period of time if any of the following becomes evident:

- 1) a factor endangering the security of supply;
- 2) the scarcity of primary energy sources;
- 3) a danger to the life or health of persons or to the preservation of the network or any other electrical installation.

(2) The measures mentioned in subsection 1 of this section may be implemented without observing the provisions of Chapters 3–7 of this Act if this is vital for ensuring the security of supply.

(3) In a situation mentioned in subsection 1 of this section, the Government of the Republic establishes the grounds for the calculation of costs incurred as a result of implementing the measures, as well as the list of persons who are required to pay compensation for such costs and of persons who are entitled to compensation, and the extent of and rules for the compensation of the costs.

(4) In a situation mentioned in subsection 1 of this section, the following measures may be applied:

- 1) [repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 2) imposition of an obligation to procure and store reserves of primary energy sources required for generation;
- 3) suspension or restriction of the rights granted by this Act to producers or any other market participant;
- 4) limitation or interruption of the supply of electricity to particular market participants;
- 5) restriction or modification of the obligation to provide network services.

(4¹) The Competition Authority may require the system operator to arrange a competitive tendering process for the creation of new production capacities, energy storage devices or demand-side management measures that promote energy efficiency if, based on the report mentioned in subsection 7 of § 39 of this Act, the capacity reserve of generating installations of the system falls below the capacity reserve which is provided by the network code on the functioning of the power system and which is required in order to satisfy the demand for consumption, or if this is necessary for the promotion, for the purpose of environmental protection, of new technologies.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4²) When arranging a competitive tendering process mentioned in subsection 4¹ of this section, the system operator observes the following requirements:

- 1) a detailed and non-discriminating plan for financing of the construction of the generating installation must be presented in the terms and conditions of the process;
- 2) the terms and conditions of the process must be published in Estonian and in English on the website of the system operator;

- 3) the terms and conditions of the process must contain a detailed description of the contract terms and of the rules to be followed by all tenderers and an exhaustive list of criteria governing the selection of tenders and the award of the contract, including incentives which are covered by the tender;
 - 4) existing producers whose electricity supply offers have a long term guarantee may also participate in the process;
 - 5) details of the process are published in the Official Journal of the European Union at least six months prior to the closing date for tenders;
 - 6) confidentiality of the information contained in the tenders must be ensured.
- [RT I 2007, 23, 120 – entry into force 01.05.2007]

(5) The Government of the Republic notifies the European Commission and other member states of the European Union without delay of any measures implemented under this section.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

Chapter 2

MARKET PARTICIPANTS

Subchapter 1

Types of Market Participants

§ 5. Market participants

Market participants are electricity undertakings, consumers, energy communities, balance providers and the power exchange operator.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 6. Electricity undertaking

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(1) An electricity undertaking is a natural or legal person who is not a consumer and who engages in electricity:

- 1) generation;
- 2) transmission;
- 3) distribution;
- 4) aggregation;
- 5) consumption management;
- 6) storage;
- 7) sale;
- 8) purchase.

(2) An electricity undertaking is responsible for any commercial, technical or maintenance matters related to activities mentioned in subsection 1 of this section.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 7. Producer

(1) A producer is an electricity undertaking engaged in the generation of electricity by means of one or several generating installations.

(2) A small producer is a producer the net capacity of whose generating installations which are located in Estonia, together with the net capacity of generating installations located in Estonia and owned by producers belonging to the same group as the producer does not exceed 10 MW.

(3) [repealed – RT I, 05.07.2016, 3 – entry into force 01.01.2017]

§ 8. Network operator

(1) A network operator is an electricity undertaking engaged in the provision of network services through a network.

(2) The transmission network operator is an electricity undertaking engaged in the provision of network services through the transmission network.

(3) A distribution network operator is a legal person who is engaged in the provision of network services through a distribution network and who is responsible for operating, maintaining and developing the distribution network in its service area and for connecting it to other networks. A distribution network operator ensures the network's long-term capacity to cater to reasonable demand for electricity distribution.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 9. Line possessor

A line possessor is an electricity undertaking that conveys electricity via a direct line or a direct current line which crosses the national border.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 10. Seller

The seller is an electricity undertaking engaged in the sale of electricity.

§ 11. Balance provider

The balance provider is a person who, following the rules provided by this Act and the legislation enacted under it, has concluded a balance agreement with the system operator in order to maintain its balance.

§ 11¹. Power exchange operator

A power exchange operator is the nominated electricity market operator designated by the Competition Authority in accordance with paragraph 3 of Article 4 of Commission Regulation (EU) 2015/1222 (OJ L197, 25.07.2015, pp. 24–72).
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 11². Power exchange trader

A power exchange trader is a market participant to whom the power exchange operator, by a corresponding agreement concluded with the trader, has granted a right to trade on the power exchange.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 12. Consumer

(1) A consumer is a person who uses electricity for the person's own purposes.

(1¹) 'Household consumers' means consumers using electricity for their own household consumption, excluding their commercial or professional activities.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1²) 'Commercial consumers' means consumers who are not household consumers.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1³) 'Small consumers' means household consumers, apartment associations, building associations and such commercial consumers whose electrical installation is connected to the network at low voltage and through a main circuit breaker of up to 63A.
[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) For the purposes of this Act, a person who purchases electricity is deemed to be a consumer only in respect of the electricity that the consumer uses for the consumer's own purposes.

(3) A person who uses electricity generated for the power station's own consumption is not considered a consumer.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4) 'Household consumer of universal service' means a household consumer or a person who purchases electricity for transmission and sale to a household consumer – to the extent of the required quantity – and to whom universal service is provided under § 76⁵ of this Act.
[RT I, 22.10.2022, 4 – entry into force 23.10.2022]

(5) 'Commercial consumer of universal service' means a non-profit association, foundation or self-employed person who, during a year, purchase up to 1 GWh of electricity, as well as a micro- or small undertaking, or a person who purchases electricity for transmission and sale to the aforementioned persons – to the extent of the required quantity – and to whom universal service is provided under § 76⁵ of this Act.
[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

(6) When verifying whether the micro- or small undertaking is entitled to receive universal service, the seller bases its verification on the total turnover and total balance sheet assets stated in the annual accounts for the

financial year that preceded the year during which the verification is carried out, and on the number of full-time equivalent employees stated in those accounts. Where the commercial consumer's number of employees has changed by reference to that stated in the aforementioned accounts, the number of employees is determined on the basis of the number of full-time equivalent employees stated in the register referred to in subsection 1 of § 25¹ of the Taxation Act.

[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

(7) The universal service contract for the purchase of electricity between the seller and the non-profit association, foundation or self-employed person in their capacity of commercial consumer of universal service is terminated when the annual quantity threshold of electricity of 1 GWh is reached and, at the latest within ten days following the reaching of the threshold, the seller makes a proposal to the consumer to conclude a new electricity contract. If the consumer declines the proposal and does not conclude a new electricity contract with the seller or with another seller, the seller sells electricity to the customer based on the hourly price of the power exchange.

[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

§ 12¹. Active user of network services

(1) A consumer may operate as an active user of network services.

(2) An active user of network services has balance responsibility and a right to:

- 1) operate directly or through aggregation;
- 2) sell any electricity it has generated;
- 3) participate as a provider of flexibility or energy performance services;
- 4) delegate, to a third party, the management, installation, operation and maintenance of any equipment as well as the processing of any data required for its operations.

(3) A person to whom an active user of network services has delegated the management, installation, operation and maintenance of any equipment as well as the processing of any data required for its operations is not deemed an active user of network services.

(4) Within the scope of its balance responsibility, a balance provider is an active user of network services – except where it has delegated its balance responsibility in accordance with Article 5 of Regulation (EU) 2019/943 of the European Parliament and of the Council.

(5) An active user of network services that owns an energy storage unit is allowed to provide several flexibility services at the same time.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 12². Energy community

(1) An energy community is a legal person:

- 1) participation in which is voluntary and open and which is controlled by members who are natural or legal persons;
- 2) whose principal aim is, instead of a monetary profit, to provide environmental, economic or social benefits to its members or to the area in which the community operates;
- 3) which may provide energy services to its members;
- 4) whose members retain rights and obligations that they hold by virtue of legislation made under this Act as a household consumer or as an active user of energy services.

(2) Where an energy community supplies electricity that it has generated itself for consumption to its members, it does this using installations erected by the community or a service provided by the area's distribution network operator.

(3) A member of an energy community may resign from the community, giving at least six months' notice of the resignation.

(4) An energy community has balance responsibility. Within the scope of its balance responsibility, an energy community is a balance provider – except where it has delegated its balance responsibility in accordance with Article 5 of Regulation (EU) 2019/943 of the European Parliament and of the Council.

(5) An energy community that consumes electricity generated by itself is an active user of network services within the meaning of § 12¹ of this Act.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 13. [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 14. [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

Subchapter 2

Requirements for Electricity Undertakings

§ 15. Requirements with respect to form of operation and capital

(1) An electricity undertaking that possesses legal personality is a person registered in the European Economic Area.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) The share capital of a network operator or of a line possessor who uses a direct current line which crosses the national border is at least 127,800 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) The share capital of a producer or seller is at least 31,950 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(4) Subsection 1 of this section does not apply to a line possessor who uses a direct line.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) Subsections 1 and 3 of this section do not apply to a producer and seller who generates or sells electricity that has been produced by a generating installation which they own and which has a total net capacity of up to 1 MW.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5¹) Subsections 1 and 3 of this section do not apply to the sale of electricity by a consumer, if that electricity has been transmitted to the consumer via a direct line and has been produced by a generating installation that has a net capacity of up to 1 MW.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(6) Subsections 1 and 3 of this section do not apply to:

- 1) a person who, outside its principal activities and within the boundaries of a building or immovable which belongs to them or is entirely in their possession, sells and conveys electricity solely to persons who use the building or immovable on lawful grounds, provided the sale of electricity is not the seller's principal activity;
- 2) a non-profit organisation who sells and conveys electricity to its members solely for the purpose of supplying electricity to the apartments, cottages, garages or private dwelling houses which the members own or occupy.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 16. Unbundling of activities

(1) If this Act does not prohibit an electricity undertaking from operating in several electricity-related or other areas of activity at the same time, the electricity undertaking must, in order to avoid discrimination, cross-subsidisation and distortion of competition, keep accounts of its electricity-related and other areas of activity as well as of the different electricity-related areas of activity listed in subsection 1 of § 22 of this Act as would be required of separate undertakings operating in those areas.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) The operator of the transmission network or of a distribution network to which more than 100,000 consumers are connected may not generate or sell electricity.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(3) It is not contrary to subsection 2 of this section for:

- 1) the transmission network operator to perform the obligations provided by Chapters 3 and 4 of this Act;
- 1¹) the operator of the transmission network to generate electricity in the emergency reserve power station in the event of an unexpected shutdown of the production capacity or net capacity of the system or of the power system of another country electrically connected to the system or in the event of a danger to the security of supply or when it is required for the purpose of periodical testing of the emergency reserve power station;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

2) a network operator only to generate electricity to compensate for network losses;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

2¹) a distribution network operator whose service area includes a micro isolated network, to produce or sell electricity to a seller of electricity in the area of the micro isolated network;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) other undertakings belonging to the same group as the network operator to operate in other areas of activity.

4) [repealed – RTI 2004, 86, 583 – entry into force 01.01.2005]

5) [repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) The transmission network operator may not at the same time be a distribution network operator, or belong to the same group with any undertaking which engages in activities related to generating or selling electricity.
[RT I 2010, 8, 40 – entry into force 01.07.2010]

(4¹) It is not contrary to subsection 1 of this section when the transmission network operator establishes a joint enterprise with an undertaking who owns the transmission network in another member state and acts as the operator of the transmission network, or with an undertaking who is an independent system operator recognised in another member state in accordance with Article 44 of Directive (EU) 2019/944 of the European Parliament and of the Council concerning common rules for the internal market in electricity and amending Directive 2012/27/EU (OJ L 158, 14.06.2019, pp. 125–199) or an independent transmission network operator within the meaning of Section 3 of Chapter VI of the same Directive.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4²) Where the transmission network operator is split off from a vertically integrated undertaking, the transmission network operator may not convey the business secrets in its possession to an undertaking engaged in production or sale and the employees of the transmission network operator may not, in the course of the split, accept employment positions with an undertaking engaged in production or sale.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(5) The trade mark and communication of the operator of a distribution network must be clearly distinguishable from that of an undertaking which engages in the generation or sale of electricity and which belongs to the same group as the operator, provided more than 100,000 consumers are connected to its distribution network.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 17. Reporting and auditing

(1) The Government of the Republic has a right to establish additional justified requirements for electricity undertakings regarding their accounts and the disclosure of their reports with a view to ensuring transparent reporting of the revenues from and expenditures on electricity-related activities and of transactions between undertakings that belong to the same group.

(2) An electricity undertaking includes in its annual accounts an explanation of the principles for allocating expenditures among the electricity undertakings belonging to the same group. The principles may be amended by the electricity undertaking only in exceptional circumstances. Any amendments and the reasons for such amendments are described in the annual accounts.

(3) An electricity undertaking presents a balance sheet and a profit and loss account for each area of activity as annexes to its annual accounts.

(3¹) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) An electricity undertaking arranges for the auditing of its activities. In a report setting out the auditing results, the auditor, in addition to other information, presents an opinion on whether the annual accounts of the electricity undertaking together with their annexes comply with this Act and the legislation enacted under it.

§ 18. Management of distribution network operators

[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(1) A member of the management board of a distribution network operator may not at the same time be a member of the management board of another electricity undertaking connected to the distribution network operator by means of control, or otherwise be in charge of the day-to-day economic operations of another electricity undertaking which belongs to the same group as the distribution network operator.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1¹) Subsection 1 of this section does not restrict the right of a member of a distribution network operator's management or supervisory board or of any other person responsible for the operator's day-to-day economic operations to be a member of the management or supervisory board – or a person responsible for the day-to-day economic operations – of another network operator connected to the first by being controlled by it.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(1²) A distribution network operator mentioned in subsection 1 of this section whose legal form is that of a private limited company must have a supervisory board.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(1³) The Articles of Association of a distribution network operator mentioned in subsection 1 of this section may not, under subsection 2 of § 317 of the Commercial Code, vest in its supervisory board the right to decide on matters not provided for by subsection 1 of that section.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(1⁴) The proposal – to the general meeting of a distribution network operator mentioned in subsection 1 of this section whose sole shareholder is an electricity undertaking that is a State-owned company – to appoint or recall members of the operator's supervisory board is made by the Committee for Appointment of Members of Supervisory Boards of Partly State-Owned Companies mentioned in § 80¹ of the State Assets Act.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) [Repealed – RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4) Any remuneration paid or any other benefit provided to a member of the management board of a distribution network operator or a person responsible for the operator's day-to-day economic operations may not depend on the commercial performance of another electricity undertaking or of a person who controls that undertaking.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5) A distribution network operator must have at its disposal the technical, physical, financial and human resources required for the preservation and development of the assets needed for the provision of network service. This does not preclude a parent company from carrying out economic and management oversight over the return on the subsidiary's assets, which primarily includes the right to approve the annual budget of the operator – including a financing plan – and the ceiling limit for the subsidiary's debt. The parent company may not intervene in the day-to-day economic operations of the subsidiary or in decisions concerning the construction or upgrading of the network, provided these decisions do not exceed the limits of the approved annual budget.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5¹) Any services that a distribution network operator requires in order to provide network service are procured on conditions that are transparent, non-discriminatory and market-based.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(6) A distribution network operator formulates and implements a plan which lays out the measures necessary to ensure equal treatment of other electricity undertakings and consumers and states the obligations of the employees of the distribution network operator to implement such measures. The operator files the plan with the Competition Authority.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(7) The plan mentioned in subsection 6 of this section is formulated, its implementation is monitored, and the annual report concerning measures taken to implement it is compiled by an employee who is appointed by a member of the distribution network operator's management board and fulfils the conditions established by the operator's supervisory board, who is independent in formulating the plan and has access to the entirety of the operator's data and of the data of any other undertaking belonging to the group of companies to which the operator belongs insofar as these data are required for the performance of such an employee's task.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(8) A distribution network operator files its annual report with the Competition Authority and informs the Competition Authority of the availability of the report on its website.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

§ 18¹. Management of transmission network operator and of line possessor using a direct current line that crosses the national border

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1) A person who controls the transmission network operator may not control, or exercise any other rights in respect of, an undertaking which produces or sells gas or electricity. A person who controls an undertaking which produces or sells electricity may not control, or exercise any other rights in respect of, the transmission network operator, or in respect of an undertaking which provides gas transmission services,
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(2) [Repealed – RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(3) The person who appoints members of the supervisory or management board of the transmission network operator or members of a body that legally represents the transmission network operator may not have control over an undertaking which produces or sells gas or electricity or exercise any other rights in respect of that undertaking.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(3¹) The other rights mentioned in subsections 1 and 3 of this section include, first and foremost, voting rights, the right to appoint members to the supervisory or management board of the undertaking or to a body that legally represents the undertaking, holding a controlling interest in the undertaking, or using or disposing of property forming a part of the transmission network.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4) A member of the supervisory or management board of the transmission network operator may not be a member of the supervisory or management board of an undertaking which produces or sells electricity or a member of a body that legally represents such an undertaking.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) Where the person mentioned in subsections 1 and 3 of this section is the State, the transmission network operator may not be controlled by the same authority that controls an undertaking which produces or sells electricity.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(6) An undertaking engaged in production or sale may not have control over a transmission network operator in a member state of the EU that applies the requirement of the separation of ownership of transmission network operators from undertakings engaged in production and sale.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(7) Management of the line possessor that uses a direct current line crossing the national border is subject to the requirements established in this section with respect to the transmission network operator.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 19. Notification requirement

(1) A person notifies the Competition Authority in writing if they:
[RT I 2007, 66, 408 – entry into force 01.01.2008]

- 1) acquire ownership of a network or a personal right to use a network;
- 2) commence construction of a generating installation with a net capacity of over 1 MW, acquire a generating installation with a net capacity of over 1 MW or obtain direct possession of such an installation;
- 3) acquire a direct line or a direct current line crossing the national border or a personal right to use one;
- 4) acquire shares in a network operator, a line possessor or a producer who is in possession of generating installations with a net capacity of over 1 MW, as a result of which the person holds at least 50 per cent of the votes represented by shares at the general meeting of shareholders of the company, or if the person acquires control, by any other means, over a network operator, line possessor or a producer who is in possession of generating installations with a net capacity of over 1 MW;

(2) The notification mentioned in subsection 1 of this section is transmitted within ten days following conclusion of the contract under which the person acquires the right or property mentioned in subsection 1, or their direct use or possession. Where such a right or property is acquired, or their direct use or possession commences prior to conclusion of a corresponding contract or without such a contract, notification is made within ten days following the acquisition or commencement of direct possession or use. The following information is included in the notification:

- 1) the location and description of the network, line or generating installation, including the net capacity of and energy sources used by the generating installation;
- 2) the name of the network operator, line possessor or producer mentioned in clause 4 of subsection 1 of this section and its registration number in the Commercial Register;
- 3) the name, personal identification code or registration number in the Commercial Register, and contact details of the person who acquired the network, line or generating installation or of the person who has acquired a personal right to use the same or entered into direct possession of the same or of the person who has acquired control or shares of the same;
- 4) the legal basis for and material circumstances relating to the acquisition of the network, line or generating installation or of acquiring a personal right to use the same or of entry into direct possession of the same, or of the acquisition of control or shares of the same;
- 5) any substantial changes in the business forecast.

(3) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) The transmission network operator must inform the Competition Authority of every planned transaction which may give rise to the need to review the operator's conformity to the requirements listed in § 18¹ of this Act. The transmission network operator must also, without delay, inform the Competition Authority of any circumstances that make it possible for a citizen of a country other than a member state of the European Union (hereinafter 'third country') or a legal person incorporated and registered in such a country to acquire control of the operator.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(5) An electricity undertaking presents, to the Competition Authority, the particulars of any investment projects mentioned in clause 3 of the Annex to Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96 (OJ L 84, 20.03.2014, pp. 61–68),
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

§ 20. Guarantees of balance provider

(1) A balance provider provides the system operator with bank guarantees which meet the requirements provided by the network code on the functioning of the electricity market and which secure unconditional performance of all the obligations of the balance provider in respect of the system operator. Such guarantees are permanent guarantees and variable guarantees.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) A balance provider provides a permanent guarantee in the amount prescribed in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(3) A balance provider provides a variable guarantee in the amount equal to the amount payable for the balancing electricity purchased by the balance provider over a period of time equal to one and a half times the period which is provided by the network code on the functioning of the electricity market as the base period for money transactions related to the balance (hereinafter, ‘transaction period’) and which precedes the provision of the variable guarantee or decision on amending the guarantee, less the amount payable for balancing electricity purchased from the balance provider over the same period of time.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) If it is not possible to determine the amount of a variable guarantee according to the method mentioned in subsection 3 of this section, the system operator determines the amount of the variable guarantee based on the amount payable for the balancing electricity likely to be purchased by the balance provider over a period of time equal to one and half times the transaction period, less the amount payable for the balancing electricity likely to be purchased from the balance provider over the same period of time, and taking into account the economic reliability of the balance provider.

(5) The system operator determines the amount of the variable guarantee to be provided by a balance provider and, if necessary, modifies that amount according to the provisions of subsections 2–4 and 6 of this section.

(6) At the demand of a balance provider, the system operator reduces the amount of a variable guarantee if the amount to be determined under subsection 3 or 4 of this section would, at the moment of reduction, be significantly lower than the amount last determined as the amount of the balance provider’s variable guarantee. The system operator increases the amount of a variable guarantee if the amount to be determined under subsection 3 or 4 of this section would, at the moment of increase, be significantly greater than the amount last determined as the amount of the balance provider’s variable guarantee.

(7) A balance provider maintains any permanent or variable guarantee as valid for the amount prescribed in the network code on the functioning of the electricity market or determined by the system operator in accordance with this Act.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(8) Detailed conditions for the provision of permanent and variable guarantees and for the determination of and making changes to guarantee amounts are prescribed in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 21. Other requirements for balance providers

(1) A balance provider must possess means of communication which meet the requirements established in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) A balance provider concludes a balance agreement with the system operator.

§ 21¹. Provider of a service of vital importance

For the purposes of clause 1 of subsection 1 of § 36 of the Emergency Act, ‘provider of a service of vital importance’ means:

[RT I, 03.03.2017, 1 – entry into force 01.07.2017]

- 1) a producer whose power station has a net capacity exceeding 200 MW;
- 2) a line possessor whose power line crosses the national border and has a transmission capacity exceeding 100 MW;
- 3) the transmission network operator;
- 4) a distribution network operator whose distribution network connects to more than 10,000 consumers.

[RT I, 03.03.2017, 1 – entry into force 01.07.2017]

§ 21². Requirements to ensure operational continuity of services of vital importance

(1) A producer who provides a service of vital importance within the meaning of clause 1 of § 21¹ of this Act must ensure the performance on their premises of rescue operations required for operational continuity of the service and must ensure that a rescue unit required for such operations is available.

(2) For the purposes of this Act, rescue operations required for the operational continuity of the service means rescue operations that are unavoidable and urgent and that are carried out without delay on the producer's premises upon the occurrence of a rescue event until the arrival of the rescue authorities.

(3) Requirements for rescue units performing rescue operations mentioned in subsection 1 of this section and the rules for cooperation with the rescue authorities are enacted by a regulation of the Minister in charge of the policy sector.

[RT I, 10.11.2061, 1 – entry into force 01.01.2017]

§ 21³. Provider of a service of general interest

A network operator who engages in activities that require an authorisation is deemed provider of a service of general interest within the meaning of the General Part of the Code of Economic Activities Act.

[RT I, 12.12.2011, 2 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 21⁴. Demand response through aggregation

(1) When procuring flexibility and ancillary services, a network operator allows the participation of an aggregator in demand response.

(2) An aggregator has balance responsibility. Within the scope of its balance responsibility, an aggregator is a balance provider, except where it delegates its balance responsibility in accordance with Article 5 of Regulation (EU) 2019/943 of the European Parliament and of the Council.

(3) The Competition Authority elaborates conditions for participation in demand response, conducts public consultation with market participants and publishes the conditions on its website. When elaborating the conditions, aggregated loads are taken into account.

(4) Based on the conditions for participation in demand response mentioned in subsection 3 of this section, network operators elaborate the required methodologies and file these with the Competition Authority. The Authority may require amendment of the methodology.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

Subchapter 3

Obligation of Undertakings to Notify and to Hold Authorisation

[RT I, 29.06.2018, 2 - entry into force 01.01.2019]

§ 22. Requirement to hold a relevant authorisation

(1) An undertaking must hold a relevant authorisation to engage in the following activities:

- 1) the generation of electricity;
- 2) the provision of network services through a distribution network;
- 3) the provision of network services through the transmission network;
- 4) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];
- 5) conveying electricity via a direct current line crossing the national border;
- 6) conveying electricity via a direct line or via direct lines.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The obligation provided by subsection 1 of this section does not apply in the following situations:

- 1) when electricity is generated by a generating installation which has a net capacity of up to 1 MW;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

- 2) when electricity is conveyed in accordance with clauses 1 or 2 of subsection 6 of § 15 of this Act, or via a closed distribution network;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

- 3) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];

- 4) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];
- 5) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];
- 6) when electricity is generated in accordance with subsection 3 of § 16 of this Act;
[RT I, 29.06.2018, 2 – entry into force 01.01.2019]
- 7) when electricity is conveyed via a direct line, provided the direct line is connected to a generating installation whose net capacity is up to 1 MW.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(3) A generating installation that uses nuclear energy may be employed for the generation of electricity provided this is authorised by a resolution of the *Riigikogu*.

(4) The authorisation to provide network services through the transmission network is granted to one undertaking only.

(5) An undertaking that pursues the activity mentioned in clause 2 or 3 of subsection 1 of this section has a right, on conditions provided by law, to construct, in the service area stated in the authorisation, correspondingly either the distribution or transmission network and to use that network in that area for the provision of network services.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 22¹. Obligation to notify

(1) In order to operate as a seller of electricity, an undertaking must present a notice of economic activities to the Register of Economic Activities in accordance with the rules provided by the General Part of the Economic Activities Code Act.

(2) The obligation to notify does not apply in the following situations:

- 1) when selling electricity in accordance with clause 1 or 2 of subsection 6 of § 15 of this Act;
- 2) when selling electricity generated by the producer;
- 3) when selling electricity on the power exchange;
- 4) when selling electricity in accordance with subsection 3 of § 16 of this Act;
- 5) when selling electricity, provided the distribution network operator only provides, to the market participant, the service of open supply in accordance with subsection 4¹ of § 44, or universal service in accordance with § 76¹ of this Act;

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

6) when selling electricity, provided the electricity has been conveyed to the consumer via a direct line and generated by generating installations which have a total net capacity of less than 1 MW.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 23. Applying for the authorisation

(1) Applications for the authorisation are decided on by the Competition Authority within 60 days, except for applications for the authorisation to provide network services through the transmission network, which are to be decided on within 10 months.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) In addition to the particulars and documents required by virtue of the General Part of the Code of Economic Activities Act, the following are to be annexed to the application for authorisation:

- 1) where network services are to be provided through a distribution network, the definition and schematic layout of the service area conforming to the provisions of § 62 of this Act;
- 2) where electricity is to be conveyed via a direct current line or direct line crossing the national border, the maximum rated operating voltage of the line, the length of the line, the schematic layout of the line and its geographical coordinates;
- 3) where electricity is to be conveyed via a direct, the document that certifies conformity to the condition mentioned in § 61 of this Act.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 24. Obligation to notify of terminating the exploitation of a generating installation

[Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 25. Application for authorisation for generation of electricity

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 26. Scope of scrutiny for an authorisation

(1) An authorisation is issued to the undertaking if it meets the requirements established in § 15 of this Act.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

(2) An authorisation for the provision of network service through a distribution network is issued to an undertaking if that undertaking, in addition to the provisions of § 15 and subsections 1–1⁴ and 4–7 of § 18 of this Act also fulfils the following requirements:

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

- 1) the organisation of the undertaking is suitable considering the extent and nature of the activity applied for;
 - 2) the undertaking employs a sufficient number of staff with the necessary qualifications, including persons qualified to perform electrical work[ML1] and to supervise electrical installations;
- [RT I, 23.03.2015, 4 – entry into force 01.07.2015]
- 3) [Repealed – RT I, 23.03.2015, 4 – entry into force 01.07.2015]
 - 4) the undertaking possesses commercial prerequisites for operating in the area of activity applied for;
 - 5) the undertaking possesses other prerequisites necessary for operating in the corresponding area of activity in accordance with this Act and the legislation enacted under it;
 - 6) the actions of the undertaking do not jeopardise the security of supply.

(3) An authorisation for the provision of network services through a distribution network is to be issued if this is not in conflict with the provisions of subsections 1 and 2 of this section and with § 60 of this Act and provided that the geographical area stated in the application is suitable for the distribution of electricity.

(4) An authorisation for providing network services through the transmission network is issued to the person who owns the transmission network, meets the requirements provided by § 18¹ of this Act and complies with the conditions provided under subsection 2 of this section.

(5) An authorisation for the provision of network services through the transmission network is only issued to one network operator.

(6) An authorisation for conveying electricity via a direct line is issued to the undertaking if the issuing of the authorisation is in conformity with the provisions of § 60 and 61 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) An authorisation to convey electricity via a direct current line that crosses the national border is issued to the person if that person meets the requirements provided by subsection 2 of § 15 and in § 18¹ of this Act, provided the issuing of the authorisation is in conformity with §§ 60 and 61.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 26¹. Assessment of compliance with established requirements of transmission network operator and of possessor of a direct current line crossing the national border

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1) The Competition Authority assesses compliance of the transmission network operator with the requirements established in § 18¹ of this Act in accordance with this section and Article 51 of Regulation (EU) 2019/943 of the European Parliament and of the Council.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) The Competition Authority initiates an assessment of compliance with established requirements in respect of the transmission network operator if the person applies for the authorisation mentioned in clause 3 of subsection 1 of § 22 of this Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(3) The Competition Authority prepares a draft decision regarding assessment of compliance with the requirements within four months following receipt of an application for authorisation and, without delay, transmits such a decision together with the relevant information to the European Commission in order to obtain the latter's opinion.

[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(3¹) If the authorisation mentioned in clause 3 of subsection 1 of § 22 of this Act is applied for by a transmission network owner or transmission network operator who is controlled by a person from a third country, the Competition Authority, prior to making the assessment decision, requests the opinion of the European Commission on whether the person complies with the requirements provided by in § 18¹ of this Act and whether certifying that the person complies with the requirements jeopardises the security of supply of the European Union.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) The Competition Authority makes a decision regarding the assessment of compliance with established requirements within two months following receipt of the opinion of the European Commission or within four

months after the Commission's opinion was requested. When making its decision, the Competition Authority takes the Commission's opinion into account to the greatest extent possible.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) If the Competition Authority has not made a decision regarding assessment of compliance with established requirements within the time-limit provided by subsection 4 of this section, the transmission network operator is deemed to comply with the requirements provided by § 18¹ of this Act and the authorisation mentioned at clause 3 of subsection 1 of § 22 of this Act is deemed to have been issued.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(6) The Competition Authority assesses compliance with the requirements provided by § 18¹ of this Act of the possessor of a direct current line that crosses the national border and that has a connection to the network of another country, following the provisions that govern the assessment of compliance with requirements of the transmission network operator.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 27. Application for authorisation for transmission of electricity through a line

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 28. [Repealed – RT I 2010, 8, 40 – entry into force 27.02.2010]

§ 29. Special rules regarding refusal to issue the authorisation

Where the Competition Authority refuses to issue the authorisation for the activity mentioned in clause 1 of subsection 1 of § 22 of this Act, it transmits a notice to that effect to the European Commission. The notice states the reasons for the refusal.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 30. Refusal to issue the authorisation

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 31. Validity of authorisation

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 32. Ancillary conditions of the authorisation

(1) The following ancillary conditions are included in the authorisation for the production of electricity:

- 1) the maximum rated net capacity of the generating installation;
- 2) location data in respect of the generating installation;
- 3) data concerning the energy source used to operate the generating installation;
- 4) information concerning whether the electricity generated under the authorisation may be sold using the support mentioned in § 59 of this Act;
- 5) where the electricity generated under the authorisation may be sold using the support mentioned in § 59 of this Act, the list of requirements applicable to the generation of electricity from a renewable energy source and to the generating installations used for that purpose;
- 6) a description of the installations that may be used to generate and sell electricity when using the support mentioned in § 59 of this Act.

(2) The following ancillary conditions are included in the authorisation for the provision of network services through the distribution or transmission network:

- 1) the highest rated operating voltage of the network;
- 2) the technical, economic and organisational requirements that the network operator must meet;
- 3) in relation to the provision of network services through a distribution network, information concerning the service area assigned in accordance with § 62 of this Act.

(3) The following ancillary conditions are included in the authorisation for the transmission of electricity via a direct current line crossing the national border or via a direct line:

- 1) the highest rated operating voltage of the network;
- 2) the geographical coordinates of the line and the length of the line.

(4) The following ancillary conditions may be included in the authorisation:

- 1) the requirement to provide a security approved by the Competition Authority to cover the cost of resiting the network and the electrical installations connected to the network or to cover the cost of implementation of measures to rebuild the network and the electrical installations connected to the network;
- 2) a development obligation conforming to § 66 of this Act.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 33. Modification of authorisation and establishment of new ancillary conditions

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1) In addition to the grounds provided by the General Part of the Code of Economic Activities Act, the Competition Authority may, in observance of the General Part of the Code of Economic Activities Act, this Act and the principles of equal treatment and free competition, of its own motion modify the authorisation or establish ancillary conditions thereto, provided this is necessary in order to reflect a legislative amendment, to ensure the security of supply, or to ensure compliance with an obligation emanating from this Act or from the legislation made under it.

(2) When modifying the authorisation or establishing a new ancillary condition, the Competition Authority gives the holder of the authorisation at least 90 days' advance notice in writing.

(3) Where delaying the modification of the authorisation or the establishment of a new ancillary condition may jeopardise the security of supply, the Competition Authority is not required to observe subsection 2 of this section or the rules provided by the General Part of the Code of Economic Activities Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 34. Validity period of authorisation

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 35. Extension of validity period of authorisation

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 36. Revocation of authorisation

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 37. Obligation to continue activities

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

Chapter 3 SYSTEM RESPONSIBILITY

§ 38. System responsibility and system operator

(1) System responsibility means the obligation to ensure the security of supply and balance of the system at any moment in time.

(2) System responsibility lies on the system operator. The system operator is the operator of the transmission network.

(3) The system operator exercises the rights and performs the obligations arising from this Chapter in accordance with the principle of equal treatment.

§ 39. Obligations of system operator

(1) In order to perform the obligation provided by § 38 of this Act, the system operator:

1) ensures the security of supply of the system in accordance with the network code on the functioning of the power system;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

2) formulates an annual action plan to ensure the security of supply for the following year and, if necessary, modifies that plan;

3) plans and manages generation in the system, the transmission of electricity in the transmission network and the consumption of electricity, taking account of the technical parameters of the system;

3¹) based on the principles of congestion management provided by Regulation (EU) 2019/943 of the European Parliament and of the Council and in Regulation (EU) 2015/1222 of the Commission, formulates the principles for intra-hour regulation of the system, the plan for the allocation of cross-border capacities and the principles of congestion management and publishes these on its website after having obtained the approval of the Competition Authority;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

- 4) ensures interoperability with neighbouring systems in real time, taking into account the technical parameters of such systems;
 - 5) prepares and brings into effect action plans for network operators for the restoration of electricity supply and monitors implementation of such plans;
 - 6) organises the restoration of electricity supply in accordance with the action plans mentioned in clause 5 of this subsection;
 - 7) settles the balance of the system and of the balance provider based on information communicated to the system operator, and purchases regulating capacity and balancing electricity, and sells balancing electricity, in order to ensure effective functioning of the electricity market and a fair allocation of the costs incurred in maintaining the balance of the system among the balance providers in accordance with this Act, the legislation enacted under it as well as with the agreements entered into with balance providers;
 - 8) verifies whether the balance providers meet the requirements provided by this Act and the network code on the functioning of the electricity market;
- [RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 9) requires balance providers to provide a bank guarantee in accordance with this Act and the network code on the functioning of the electricity market and check whether the guarantee meets the requirements;
- [RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 10) enters into balance agreements with balance providers;
 - 11) based on data relating to balance settlement and other relevant data, presents invoices to the balance provider for each transaction period regarding the charges payable for the balancing electricity purchased by the balance provider and any other charges payable to the system operator by virtue of legislation or the corresponding agreement and collects the sums payable by the balance provider under the invoice;
 - 12) based on data relating to balance settlement and other relevant data, calculates the amounts of balancing electricity sold by a balance provider to the system operator during each transaction period and pays the balance provider for such amounts;
 - 13) in situations mentioned in § 20 of this Act, demands an increase in the amount of the guarantee provided by a balance provider or authorises a reduction of that guarantee;
 - 14) makes proposals to the Minister in charge of the policy sector regarding amendment of the regulations enacted under § 42 of this Act;
- [RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 15) regularly informs the public of development trends of the system;
 - 15¹) provides information to the network operator whose network is connected to the network of the system operator in order to ensure the safe and effective functioning of the system, its coordinated development and the interoperability of the joint system;
- [RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 16) at the demand of a market participant who intends to import electricity, issues a notice to such a participant stating its opinion on whether the planned import is permissible from the point of view of technical parameters of the system and whether such import would prejudice the security of supply and, where this is needed, establishes requirements for the import of electricity based on technical parameters of the system;
- [RT I 2010, 8, 40 – entry into force 27.02.2010]
- 16¹) participates in assessing the adequacy of European resources in accordance with Chapter IV of Regulation (EU) 2019/943 of the European Parliament and of the Council;
- [RT I, 15.03.2022, 2 – entry into force 25.03.2022]
- 16²) provides an assessment of the adequacy of national resources in accordance with Article 24 of Regulation (EU) 2019/943 of the European Parliament and of the Council;
- [RT I, 15.03.2022, 2 – entry into force 25.03.2022]
- 17) performs other functions arising from this Act or from a regulation enacted under § 42 of the same.
- [RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) When the system operator issues an order mentioned in subsection 2 of § 40 of this Act to a producer who has not entered into a production capacity adjustment agreement with the system operator, or reduces or increases generation on the grounds mentioned in subsection 2 of § 40 of this Act, and this causes the producer or balance provider to incur costs, the system operator subsequently reimburses the producer or balance provider within a reasonable time for the costs which are justified and documented and which the producer would not have incurred if the system operator had not issued the order or had not increased or reduced generation.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2¹) The system operator does not reimburse the producer for loss of profit if the order to reduce generation which the system operator issued to the producer was made on the grounds mentioned in subsection 2 of § 40 of this Act and provided all other options had been exhausted.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(3) The system operator may not disclose information obtained in the course of performing its duties to any third parties. This does not apply in situations where the disclosure of information is prescribed by law or where information is to be disclosed for the performance of obligations arising from this Act.

(4) The system operator is independent in its activities. The system operator observes the principle of equal treatment with regard to all market participants with the aim of achieving the best economic results for the whole system within the framework of existing technical requirements and requirements for the security of supply as well as other requirements arising from applicable legislation.

(5) When this is required by the Competition Authority, the system operator files, separately, the allocation of revenues and expenditures related to maintaining and determining the balance of the system and for any other activities.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) When elaborating standard terms and conditions for balance agreements and setting the price of balancing electricity, the system operator follows the principles of equal treatment and transparency.

(7) The system operator compiles, and files with the European Commission, the Ministry of Economic Affairs and Communications and the Competition Authority a report which describes:

[RT I 2007, 66, 408 – entry into force 01.01.2008]

- 1) estimated supply and demand of electricity during the next five years;
- 2) the existing supply potential;
- 3) generating installations envisaged or under construction;
- 4) the quality and level of maintenance of networks;
- 5) the measures to cover the estimated maximum demand (peak demand) and the measures to be implemented in the event of shortfalls of capacity;
- 6) operational security of the network;
- 7) a forecast of the situation in relation to the security of electricity supply for ten years from the filing date of the report;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8) the investment plans of the distribution network operator and the known relevant investment plans of neighbouring countries concerning the establishment of cross-border interconnectors for the following five calendar years, taking into account the need to maintain trade secrets.

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(8) The investment plan mentioned in clause 8 of subsection 7 of this section describes:

1) principles of congestion management provided by Regulation (EU) 2019/943 of the European Parliament and of the Council;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

2) existing and envisaged transmission lines;

3) estimated patterns of generation, storage and transmission of electricity, of cross-border exchanges in electricity and of consumption of electricity which make it possible to implement load management measures;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

4) objectives of sustainable development at regional, national and European level, including projects which are part of the priority projects provided by Annex 1 to Decision No 1229/2003/EC of the European Parliament and of the Council of laying down a series of guidelines for trans-European energy networks and repealing Decision No 1254/96/EC (OJ L 176, 15.7.2003, pp. 11–28).

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(9) Where this is needed, the system operator creates, and operates, a comparison tool that meets the requirements provided by subsection 3 of § 82¹ of this Act.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 39¹. Security of supply of micro isolated networks

The network operator in whose service area the micro isolated network is located ensures the security of supply and the balance of that network in accordance with this Act and the grid code.

[RT I, 29.06.2018, 2 - entry into force 09.07.2018]

§ 40. Rights of system operator

(1) In order to perform the obligation prescribed in § 38 of this Act and other obligations prescribed in this Act, the system operator demands that producers increase or reduce generation or that consumers reduce consumption or, in accordance with contracts entered into for the purchase of regulating capacity, itself increases or reduces generation or consumption.

(2) In order to perform the obligation prescribed in § 38 of this Act and other obligations prescribed in this Act, the system operator has a right to issue mandatory orders to producers to increase or reduce generation, a right to issue mandatory orders to consumers to reduce consumption and a right, by its own decision, to increase or reduce generation or consumption, regardless of whether a contract has been entered into with the system operator for the purchase of regulating capacity, provided that the issue of such orders or the increase or reduction of generation or consumption is necessary for technical reasons or in order to ensure the security of supply.

(3) The system operator has a right to issue mandatory orders to other network operators and consumers for the restriction or interruption of the supply of electricity to consumers and a right, by its own decision, to restrict

or interrupt consumption in accordance with the action plan formulated under clause 5 of subsection 1 of § 39 of this Act, provided that this is necessary for the system operator to perform the obligation prescribed in § 38 or other obligations prescribed in this Act. The specific rules for the restriction and interruption of electricity supply mentioned in this subsection and the obligations of network operators and consumers in relation to such restriction or interruption of supply are provided by the network code on the functioning of the power system. [RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) When purchasing the electricity and regulating capacity necessary to perform its obligations and when using other relevant services, the system operator observes free market principles, acts with regard to all market participants in accordance with the principles of equal treatment and transparency, and avoids establishing unreasonable restrictions.

(5) In order to perform its duties, the system operator has a right to establish justified technical restrictions for use of the system and a right to require that, in order to ensure the technical interoperability and security of supply of the system, producers and network operators conclude cooperation agreements under reasonable conditions which conform to the principle of equal treatment.

(6) The system operator has a right to require that market participants and local authorities provide it with information that it needs for the performance of its obligations.

(7) Any payments made and costs reimbursed under subsection 2 of § 39 of this Act and any other justified costs incurred by the system operator in performing the obligations provided by this Act and the legislation enacted under it are deemed to be justified costs incurred by the transmission network operator and such costs are added to the costs based on which the transmission network operator sets and applies for the approval of, the charges payable for the transmission of electricity.

§ 40¹. Perimeter fee

In accordance with Regulation (EU) 2019/943 of the European Parliament and of the Council, the system operator pays a perimeter fee to the fund created by the inter-transmission system operator compensation mechanism for electricity transit. Perimeter fees are charged on those electricity flows which originate from or end in a country which has not joined the aforementioned compensation mechanism. The rate of the perimeter fee is determined each year in an agreement between the system operators which forms part of the compensation mechanism.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 41. Liability of system operator

(1) The system operator compensates the harm caused to third parties in the course of performing its obligations only if that harm is direct and arose through the fault of the system operator.

(2) The system operator will not compensate any harm arising from or reimburse any cost or the loss of any profit incurred in the course of the performance of orders mentioned in subsections 2 and 3 of § 40 of this Act or as a result of restrictions imposed following subsection 5 of § 40 of this Act, except for payment of charges or reimbursement of costs to producers or balance providers in accordance with subsections 2 and 2¹ of § 39 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 42. Grid code, network code on the functioning of the power system and network code on the functioning of the electricity market

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(1) The following are provided by the grid code:

1) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019];

2) technical requirements for electrical installations which are dictated by the security of supply;

2¹) simplified conditions for connecting to the network a generating installation which has a capacity of less than 15 kW and which uses a renewable energy source;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

3) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

4) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

5) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

5¹) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

5²) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

5³) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

5⁴) [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]

6) other conditions prescribed by law.

(2) The grid code is enacted by the Government of the Republic.

(3) The Government of the Republic enacts, by regulation, a network code on the functioning of the power system, which provides the following:

- 1) requirements applicable in respect of the security of supply;
- 2) technical requirements for electrical installations which are dictated by the security of supply;
- 3) the rules for restricting or interrupting the supply of electricity and the obligations of the network operators and of consumers in relation to the restriction or interruption of the supply of electricity;
- 4) technical and metrological requirements for measurements and for measuring equipment;
- 5) the rules for connection to the network and for amendment of the consumption or generation conditions;
- 6) the rules governing the calculation of charges payable to the network operator for connection to the network and for amendment of the consumption or generation conditions;
- 7) conditions for technical cooperation between the transmission network operator and the relevant network operators of neighbouring countries.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) The Minister in charge of the policy sector enacts, by regulation, a network code on the functioning of the electricity market, which provides the following:

- 1) the requirements and rules for switching to another seller or aggregator;
- 2) the requirements concerning data exchange between market participants;
- 3) the rights and obligations related to balance responsibility;
- 4) the conditions for determining the permanent and variable guarantee of the balance provider;
- 5) the terms and conditions for the sale of electricity in the event of an interruption in an open supply chain;
- 6) the rules for set-offs of the price of universal service, for data exchange related to universal service and for provision of information to small consumers;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

7) data which the seller must transmit to the operator of a comparison tool that was created by the system operator and that has been issued a trust mark;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8) the rules for auctions of recharging points, a set of recharging points or of energy storage units.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 42¹. Data exchange in electricity market

(1) A data exchange platform is a digital environment for data exchange in the electricity market for the purpose of switching open suppliers or aggregators, transmitting and receiving metering data, performing the obligations imposed on market participants by the law and ensuring the rights granted to them.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) In order for the electricity market to function and to facilitate competition, the system operator creates a data exchange platform and administrates it such that market participants, who are subject to a legal obligation and at the same time enjoy a legal right to file information, have the opportunity to do so in time, as well as the opportunity to obtain information in a timely manner and on equal terms. No additional fee is charged for the filing and retrieval of such information.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(3) Electricity undertakings transmit the following information to the data exchange platform:

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

1) identifier of the market participant as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

2) identifier of the metering point as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

3) information regarding the metering point as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

4) metering or consumption data by metering point;

5) information regarding the period of the network and electricity contract and of the aggregation contract of the market participant;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

6) information regarding the open supplier and aggregator of the metering point as established in the network code on the functioning of the electricity market;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

7) other information, as established in the network code on the functioning of the electricity market, which is required in order to achieve the objectives mentioned in subsection 1 of this section.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) The rules for the filing of information are established in the network code on the functioning of the electricity market.

(5) Transmission of personalised data via the data exchange platform to a seller, aggregator or energy service provider with whom a natural person consumer has not concluded a contract requires the consent of that consumer. This consent must meet the conditions provided by Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 04.05.2016, pp. 1–88).

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5¹) The system operator has a right to use, for energy statistics elaboration purposes, any data that have been transmitted to the data exchange platform, and to publish such statistics in the public interest. Energy statistics are anonymous.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(6) The data transmitted to the data exchange platform are preserved for twelve years and are then deleted.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) The system operator publishes on its website technical instructions for using and joining the data exchange platform.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

Chapter 4

BALANCE RESPONSIBILITY, BALANCE SETTLEMENT AND BALANCING ELECTRICITY

§ 43. Balance responsibility

(1) A market participant must ensure that the amount of electricity supplied to the network and/or purchased by the market participant in each trading period is equal to the amount of electricity acquired from the network and/or sold by the market participant.

(2) The rights and obligations relating to balance responsibility are provided for in detail by the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 44. Open supply

(1) In order to perform the obligation mentioned in § 43 of this Act, a market participant concludes a contract with a seller (hereinafter, ‘open supplier’) whereby an open supply is ensured to the market participant (hereinafter, ‘open supply contract’).

(2) In an open supply contract concluded with a market participant, an open supplier names the balance provider who has assumed the obligation to maintain the balance of the market participant who is the other party to such a contract concluded by the open supplier. The balance provider may assume the obligation:

- 1) by an open supply contract entered into with the open supplier;
- 2) through an uninterrupted chain of open supplies carried out under open supply contracts, beginning with the open supply provided by the balance provider and ending with the open supply provided to the open supplier mentioned in this subsection.

(3) An open supplier who is a balance provider is not subject to the obligation, provided by subsection 2 of this section, to name a balance provider.

(4) The time limits for concluding an open supply contract, for terminating such a contract and for providing notification of the same are provided by the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4¹) If a market participant’s contract for open supply has been interrupted, the network operator to whose network the market participant’s electricity installation is connected is regarded as the market participant’s open supplier until the execution of a new contract.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(4²) Under subsection 4¹ of this section, the network operator provides open supply to market participants, except for small consumers:

- 1) for electricity obtained from the network, at the price of balancing electricity, to which it adds any justified costs;
- 2) for electricity supplied to the network, free of charge.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) The system operator is the open supplier of a balance provider. The balance provider concludes a balance agreement with the system operator to ensure open supply.

(5¹) In a micro isolated network, the balance provider's open supplier is the producer who is subject to the generation obligation mentioned in § 55¹ of this Act.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) An open supplier provides information concerning the start and end of open supply to the electricity undertaking which determines the balance of the other party to the open supply arrangement.

(7) An open supplier also provides the information mentioned in subsection 6 of this section to:
1) the distribution network operator of the other party to the open supply if the distribution network operator does not determine the balance of that other party;
2) the entity which determines the balance of the open supplier, if the open supplier has not previously sold electricity to that distribution network.

(8) At the request of the system operator, a balance provider provides to the system operator information concerning the chain of open supplies carried out under its open supply contracts in respect of each market participant whose balance is determined by the balance provider.

(9) [Repealed – RT I 2007, 23, 120 – entry into force 01.05.2007]

(10) [Repealed – RT I 2007, 23, 120 – entry into force 01.05.2007]

(11) [Repealed – RT I 2007, 23, 120 – entry into force 01.05.2007]

§ 45. Fixed supply

(1) A balance provider establishes rules under which it is to be notified of all fixed supplies to the market participant whose balance is maintained by the provider according to subsection 2 of § 44 of this Act.

(2) The system operator establishes rules under which it is to be notified of all fixed supplies which affect the balance between balance providers or which are carried out through a line crossing the national border.

(3) A party to a fixed supply contract notifies the start of a fixed supply to the balance provider who maintains its balance according to subsection 2 of § 44 of this Act and presents consolidated data concerning the other party to the fixed supply according to the rules established by the balance provider.

(4) A party to a fixed supply contract provides its open supplier with consolidated data concerning the amounts of electricity sold and purchased as fixed supplies during each trading period.

(5) A balance provider provides the system operator with consolidated data regarding the fixed supplies belonging to its balance for each balance provider during each trading period if such fixed supplies affect the balance between it and other balance providers.

§ 46. Balance settlement

(1) The balance of a market participant is settled for each trading period.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) A market participant ensures that the data required for the settlement of its balance are presented to the entity responsible for settling its balance according to the rules provided by this Act and the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(3) Balance is settled using the following methods:
1) electricity metering by means of a remote reading device;
2) distribution based on a combination of metering and load duration curves;
3) fixed supplies.

(4) As a result of balance settlement, the amount of a market participant's open supply is ascertained for each trading period.

(5) Balance settlement using a combination of metering and load duration curves is permitted in connection points where the size of the main circuit breaker in the phase and the capacity of the phase do not exceed the limits stated in the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(6) Where the balance of a market participant cannot be settled by using a combination of metering and load duration curves as provided by subsection 5 of this section, the balance of the market participant is settled by using electricity metering by means of a remote reading device and by reference to fixed supplies.

(7) A network operator obtains the approval of the Competition Authority for the load duration curves established for its service area.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(8) If electricity consumption by a market participant or a group of market participants differs significantly from the established load duration curves due to the specific characteristics of such a participant or such a category of participants, the distribution network operator concerned may demand that the Competition Authority approve, without delay, a new load duration curve that corresponds to the specific characteristics of the participant or category of participants. The distribution network operator may also commence metering the electricity consumed by the market participant or the category of market participants by means of a remote reading device. Any outlays associated with the cost of and incurred in relation to the installation of a remote reading device as well as any additional costs incurred by gathering and processing metering data are reimbursed to the distribution network operator by the market participant concerned.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(9) The electricity balance in a micro isolated network is established based on that network, separately from the balance of the system.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 47. Obligations of network operator in settling the balance

(1) For each connection and metering point in its network, a network operator arranges the transmission of metering data necessary for balance settlement and for the settlement of accounts to the entity responsible for balance settlement and to the system operator.

(2) A distribution network operator arranges for settlement of the balance of any market participants connected to its network and for the related exchange of information.

(3) A distribution network operator calculates the amounts of electricity of each market participant who is connected to its network and whose balance is to be settled according to this Act. In calculating the amounts of electricity, the distribution network operator uses data obtained as a result of metering carried out by means of a remote reading device or by a combination of metering and load duration curves.

(4) A distribution network operator provides the balance provider with consolidated data concerning electricity supply to and from its network separately for each market participant whose balance the balance provider maintains under subsection 2 of § 44 of this Act.

(5) A distribution network operator provides a seller with the information required for maintaining the balance and for the settlement of accounts concerning the amounts of electricity calculated in the course of balance settlement for each market participant who is connected to its network and to whom the seller sells electricity.

(6) Once a year the distribution network operator determines, for each market participant, the difference between the amount of electricity calculated using a combination of metering and load duration curves and the actual metered amount of electricity.

(7) If, according to the calculations carried out under subsection 6 of this section, the total amount of electricity calculated based on a combination of metering and load duration curves for market participants to whom the seller sold electricity exceeds the total actual metered amount of electricity for such market participants, the network operator pays the seller for the difference between the said amounts of electricity, and if the total amount of electricity calculated in this way for such market participants is less than the total actual metered amount of electricity for such market participants, the seller pays the network operator for the difference between those amounts.

(8) The charge payable for the difference between amounts of electricity mentioned in subsection 7 of this section is calculated using the average price of electricity during the period of time which was the basis for calculating the amount of electricity; the principles and rules for determining the average price are stated in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 48. Obligations of balance provider in settling the balance

(1) A balance provider arranges balance settlement and the related exchange of information in the transmission network and in the metering points between the transmission network and the distribution network for those market participants whose balance is maintained by the balance provider according to subsection 2 of § 44 of this Act. The balance provider also arranges balance settlement and the related exchange of information concerning feeds of electricity from the transmission network to the distribution network for the market participants who have fixed supplies and whose balance is maintained by the balance provider in according to subsection 2 of § 44.

(2) Based on metering data, the balance provider calculates the amounts of electricity sold by market participants whose balance is maintained by the balance provider according to subsection 2 of § 44 of this Act to other market participants through the transmission network. The balance provider also calculates the amounts of electricity for market participants connected to the distribution network, who have fixed supplies in accordance with data obtained as a result of metering using a remote reading device and data obtained as a result of a combination of metering and load duration curves.

(3) For purposes of balance settlement, a balance provider provides the system operator with consolidated data which is based on metering information and which concerns open supplies as well as consolidated data concerning the fixed supplies of those market participants whose balance is maintained by the balance provider in accordance with subsection 2 of § 44 of this Act.

(4) A balance provider provides the seller and the market participant to whom electricity was sold with information that is required for maintaining the balance and for the settlement of accounts in relation amounts of electricity calculated in order to settle the balance.

§ 49. Obligations of system operator in settling the balance

(1) The system operator carries out balance settlement for the whole system and for balance providers and, based on the data obtained, compiles a report on balance deviations between the system operator and the balance providers as well as a report on balance deviations between the system and the power systems of other countries.

(2) The system operator provides a balance provider with information concerning the amounts of electricity the parties have sold to each other. The system operator informs a foreign market participant of amounts of electricity which were purchased and sold by the market participant and which crossed the national border of Estonia.

§ 50. Other obligations in connection with settling the balance

(1) On receiving a corresponding demand, market participants provide the network operator, the balance provider maintaining their balance under subsection 2 of § 44 of this Act and the system operator with information concerning the purchase, use and sale of electricity, provided the demand to produce such data is justified in the context of balance settlement or the exercise of balance responsibility.

(2) The balance provider assists the system operator in the rectification of any inaccurate information filed for balance settlement if this is required in order to settle the balance of the whole system.

(3) The rights and obligations prescribed for market participants and the time limit for transmission of the information mentioned in this Chapter are provided for in detail in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 51. Purchase and sale of balancing electricity

(1) If, as a result of balance settlement, the balance of a balance provider is negative in any trading period, the system operator is deemed to have sold balancing electricity to the balance provider during the trading period in the amount necessary to maintain the balance of the balance provider during that trading period.

(2) If, as a result of balance settlement, the balance of a balance provider is positive in any trading period, the balance provider is deemed to have sold balancing electricity to the system operator during the trading period in the amount necessary to maintain the balance of the balance provider during that trading period.

(3) The sale of balancing electricity mentioned in subsections 1 and 2 of this section is deemed to have been effected between the system operator and the balance provider under the conditions provided for by this Act, the legislation enacted under it and the balance agreement.

§ 52. Rights and obligations of balance provider

(1) A balance provider has a right to receive payment for any balancing electricity that it sells to the system operator in accordance with this Act, the network code on the functioning of the electricity market and the contract concluded with the system operator.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) A balance provider pays for balancing electricity sold to it by the system operator in accordance with this Act, the network code on the functioning of the electricity market and the contract concluded with the system operator.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2¹) A balance provider reimburses to the system operator the perimeter fee payable on the relevant supplies of the market participant whose balance the balance provider maintains.
[RT I 2010, 8, 40 – entry into force 27.02.2010]

(3) A balance provider performs any other obligations prescribed by this Act, the network code on the functioning of the electricity market and the contracts concluded with the system operator.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 53. Price of balancing service and standard terms and conditions of balance agreements

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1) The price of electricity sold to or by a balance provider during a given trading period following subsections 1 and 2 of § 51 of this Act is determined by the system operator after the end of the given trading period in accordance with this Act and the balance agreement concluded with the balance provider.

(2) When providing the balancing service, the system operator follows the principles provided by Article 44 of Commission Regulation (EU) 2015/1222.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) When setting the price of balancing electricity, the system operator may accord preference to market participants whose balance deviation during a given trading period is converse to the balance deviation of the system as a whole during the same trading period, as opposed to market participants whose balance deviation during the same trading period is in the same direction as the balance deviation of the system as a whole.

(4) The system operator obtains approval for standard terms and conditions in the balance agreement from the Competition Authority.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) The system operator publishes on its website the price of balancing electricity and the standard terms and conditions of the balance agreement.

(6) The system operator elaborates and presents to the Competition Authority for approval a uniform method for calculating the price of the balancing service.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 54. Rules for paying for balancing electricity

(1) The system operator calculates the amount of the charge to be collected from, and the amount of the charge to be paid to, a balance provider based on the amounts of balancing electricity as determined according to § 51 of this Act and based on the selling price of balancing electricity as determined according to § 53 of this Act.

(2) For each transaction period, the system operator presents an invoice to the balance provider for an amount calculated according to subsection 1 of this section, and pays the invoices presented to it by the balance provider for any amounts calculated according to that subsection.

(3) Specific rules for transmission of data to the system operator and for the calculation, set-off and payment of the charges invoiced to balance providers for balancing electricity and of the charges payable to them for balancing electricity are provided by the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

Chapter 5 GENERATION

§ 55. Obligations of a producer

(1) The generating installations of producers must conform to the technical requirements established by regulations enacted under § 42 of this Act. The network operator to whose network a generating installation is connected or in whose service area such an installation is connected to its network via a direct line and via the electrical installation of a consumer, certifies the installation's compliance with the requirements after the end of the testing period and based on the test results. If the net capacity of the generating installation exceeds 5 MW, the installation's compliance with the requirements is certified by the system operator. The generating installation is deemed to be in compliance with the requirements from the date that such certificate is issued. The length of the testing period and other conditions concerning the testing are provided by regulations enacted under § 42 of this Act. If a European product certificate has been issued with respect to a generating installation, the testing of the installation in terms of the parameters and functions covered by that certificate is not required.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) The producer complies with any orders issued by the system operator in accordance with this Act.

(3) The producer notifies the system operator without delay of any dangerous situations, accidents or other circumstances that endanger or could endanger the security of supply or the performance of any contractual obligations.

(4) A producer who is an undertaking in a dominant position as defined in the Competition Act and who generates electricity in a combined heat and power production regime must, at the demand of the Competition Authority, produce information concerning the allocation of revenue and costs separately for the generation of electricity and for heat production together with the relevant reasons.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

§ 55¹. Producer subject to the generation obligation

The electricity required to meet the electricity needs of consumers in a micro isolated network is generated by a person who concluded the corresponding agreement by a method mentioned in § 66¹ of this Act, or by the distribution network operator in whose service area the micro isolated network is located (hereinafter, ‘producer subject to the generation obligation’).

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 56. Transfer of generating installation

(1) The owner of a generating installation and a producer must notify the Competition Authority in writing of any transfer of ownership or of direct possession of the generating installation. The notification states the names, personal identification codes or registration numbers in the Commercial Register and contact details of the transferor and transferee or of the person assigning and the person acquiring possession, and information which allows the transferred or assigned generating installation and its location to be identified.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The obligation provided by subsection 1 of this section does not apply to the transfer or assignment of possession of a generating installation with a net capacity of 1 MW or less.

§ 57. Renewable energy sources

(1) For the purposes of this Act, ‘renewable energy source’ means water, wind, solar, wave, tidal and geothermal energy sources, landfill gas, sewage treatment plant gas, biogases and biomass.

(2) For the purposes of this Act, ‘biomass’ means the biodegradable fraction of products, waste and residues from agriculture (including vegetable and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

(3) Liquid biofuel is regarded as a renewable energy source within the meaning of this Act only if it meets the criteria for the sustainability of biofuels established in accordance with subsection 1 of § 120 of the Atmosphere Protection Act.

[RT I, 05.07.2016, 1 – entry into force 01.01.2017]

§ 58. Generation from renewable energy sources and efficient cogeneration

(1) Producers may not subsidise generation from renewable energy sources at the expense of generation from other sources and vice versa. At the demand of the Competition Authority, the producer presents information on the allocation of revenue and costs separately for generation from renewable energy sources and for generation from other sources.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The amount of electricity with regard to which a guarantee of origin mentioned in § 32⁷ of the Energy Sector Organisation Act is issued, as well as the amount of electricity in respect of which the support mentioned in § 59, 59⁴, 59⁵ and 59⁶ of this Act is paid in part or in full, is determined using remote reading devices and is deemed to include the total of balanced electricity supplied to the networks of network operators holding the corresponding authorisation through all connection points of the producer’s power station during the trading period, as well as the amount of electricity conveyed to consumers via a direct line which conforms to the requirements of this Act. In a situation mentioned in § 108¹ of this Act, the quantity of electricity on which support is paid or for which a certificate of origin is issued is determined, by means of a separate dedicated remote reading device, separately for each electrical installation that is used to generate electricity.

[RT I, 18.05.2022, 1 – entry into force 28.05.2022]

(3) By the fifth day of each calendar month, the producer presents information to the transmission network operator, in respect of each generating installation, regarding the entire amount of electricity generated during the previous calendar month, and the amount of electricity generated from renewable energy sources or in an

efficient cogeneration process during the previous calendar month, and the proportion of electricity that was sold using the support mentioned in § 59 of this Act.

[RT I, 05.07.2016, 3 – entry into force 01.01.2017]

(4) The Competition Authority and the transmission network operator have a right to require a producer, as well as the line possessor or network operator to whose network or line the generating installations of the producer are connected, the data needed to verify any information presented according to subsection 3 of this section.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) If the amount of electricity actually generated from renewable energy sources or in an efficient cogeneration process by means of a generating installation which conforms to the requirements of the authorisation is less than the amount of electricity sold by the producer by using the support provided by § 59 of this Act during at least two consecutive calendar months, the Competition Authority has a right to revoke the authorisation or to vary its conditions such that electricity can no longer be sold by using the support mentioned in § 59 of this Act.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(6) Where electricity is generated from a combination of renewable energy sources and other sources, the producer receives the support allocated under clause 1 of subsection 1 of § 59 of this Act only for such amounts of electricity as are generated from renewable energy sources. The producer keeps monthly records on the use of energy sources and on the amounts of electricity generated from those sources.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(7) The conditions of and rules for determining the proportion of electricity generated from renewable energy sources are enacted by the Minister in charge of the policy sector.

(8) The transmission network operator publishes on its website the rules for filing the information mentioned in subsection 3 of this section.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 58¹. Guarantee of origin

[Repealed – RT I, 18.05.2022, 1 – entry into force 28.05.2022]

§ 58². Residual mix

[Repealed – RT I, 18.05.2022, 1 – entry into force 28.05.2022]

§ 58³. Customers who are self-consumers of electricity generated from a renewable source

(1) A customer may consume electricity they have self-generated from a renewable source.

(2) A customer who consumes renewable self-generated electricity has a right, individually or through an energy broker, to generate, store or sell such electricity.

(3) The generating installation of a customer who self-generates renewable electricity may be owned by, and its installation and operation – including metering and maintenance – may be managed by a third party. Such a third party is not a self-consumer of renewable electricity.

[RT I, 18.05.2022, 1 – entry into force 28.05.2022]

§ 59. Support

(1) Producers have a right to receive, from the transmission network operator, the support mentioned in this section:

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

1) for electricity generated from a renewable energy source using a generating installation whose net capacity does not exceed 125 MW;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2) since 1 July 2010, for electricity if it is generated from biomass in an efficient cogeneration process, except where electricity is generated from biomass in a condensation process, in which case no support is paid. Detailed guidelines for cogeneration are enacted by a regulation of the Government of the Republic at the proposal of the Minister in charge of the policy sector. When making a proposal to the Government of the Republic regarding detailed guidelines for cogeneration, the Minister in charge of the policy sector takes the proposal of the Competition Authority as the basis;

3) for electricity if it is generated in an efficient cogeneration regime from waste within the meaning of the Waste Act, from peat or carbonisation gas obtained as a result of oil shale processing;

4) for electricity if it is generated in an efficient cogeneration process with a cogeneration installation which has the electric capacity not exceeding 10 MW;

5) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The transmission network operator pays support to the producer on an application filed by the latter as follows:

- 1) 0.0537 euros per one kilowatt-hour of electricity if it is generated in accordance with clauses 1 or 2 of subsection 1 of this section;
[RT I 2010, 22, 108 – entry into force 01.01.2011]
- 2) 0.032 euros per one kilowatt-hour of electricity if it is generated in accordance with clauses 3 or 4 of subsection 1 of this section;
[RT I 2010, 22, 108 – entry into force 01.01.2011]
- 3) per one kilowatt-hour of electricity at the rate mentioned in clauses 1 and 2 of this subsection or at the rate approved by the Competition Authority if the electricity is generated in an efficient cogeneration process using a renewable energy source or peat.
- 4) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]
- 5) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]
- 6) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2¹) The support mentioned in subsection 2 of this section is state aid within the meaning of paragraph 1 of Article 107 of the Treaty on the Functioning of the European Union, and is granted following European Commission's guidelines on state aid for environmental protection and energy, and the relevant decision of the European Commission authorising the granting of state aid.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2²) The producer has a right to apply for the support mentioned in subsection 2 of this section for electricity generated by a generating installation that has an electrical capacity of at least 1 MW, provided that producer has, at the latest on 31 December 2016, commenced work on the investment project concerning that generating installation in one of the following ways:

- 1) commenced the generation of electricity;
 - 2) commenced building work concerning that investment project;
 - 3) assumed a definite obligation to order equipment for constructing the generating installation;
 - 4) assumed any other obligation that makes the investment project irreversible, taking into consideration that obligations making the investment project irreversible are deemed not to include acquisition of the plot on which the generating installation is to be constructed, procurement of requisite authorisations or preparatory works.
- [RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2³) When a producer applies to the transmission network operator for an assessment regarding the producer's compliance with the condition mentioned in subsection 2² of this section, the transmission network operator must provide the assessment within 90 days following receipt of the application. The running of the time-limit for considering the application is interrupted if the transmission network operator is not provided with the information that it needs to reach a decision in the matter.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2⁴) In the case of generating installations whose electrical capacity is higher than 50 kW but falls below 1 MW, in order to receive the support mentioned in subsection 2 of this section, the relevant installation of the producer must generate electricity at the latest on 31 December 2018.
[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

(2⁵) For electricity generated by a generating installation whose electrical capacity falls below 50 kW, the producer may receive the support mentioned in subsection 2 of this section provided electricity is generated at the latest on 31 December 2020 and provided the producer has not received investment support from the state for the construction of the relevant installation.
[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

(2⁶) The support mentioned in subsection 2⁵ of this section constitutes state aid for the purposes of Article 43 of Commission Regulation (EU) no. 651/2014 declaring certain categories of aid to be compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.06.2014, pp. 1–78), and the granting of such aid is subject to the provisions of that Regulation and of § 34² of the Competition Act.
[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(2⁷) A recipient of the support mentioned in subsection 2⁵ of this section may not, at the time when support is paid, be out of compliance with an order of the European Commission, mentioned in subparagraph (a) of paragraph 4 of Article 1 of Commission Regulation (EU) no. 651/2014, on repayment of state aid declared to be illegal and incompatible with the internal market, and it must not be an undertaking in difficulty for the purposes of point 18 of Article 2 of that Regulation.
[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(2⁸) The system operator files the information concerning the state aid granted to a person who received the support mentioned in subsection 2⁵ of this section with the Register of State Aid and of *de minimis* Aid

in accordance with subsection 3 of § 49² of the Competition Act, and preserves the documents related to the granting of such aid for 10 years from the last grant of support.
[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(3) The Competition Authority may, on a corresponding application of the producer, approve a rate that is different from the rate mentioned in clauses 1–3 of subsection 2 of this section if the electricity is generated in an efficient cogeneration process from a renewable energy source or peat. When a new rate of support is approved, the Ministry for Economic Affairs and Communications presents a separate state aid notice to the European Commission following § 34¹ of the Competition Act. The transmission network operator applies the new rate of support approved by the Competition Authority after the European Commission's decision to authorise that rate.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(4) When approving the rate mentioned in subsection 3 of this section, it is taken into account that the support and the market price of electricity together must allow the producer to:

- 1) cover justified costs incurred in order to generate electricity, provided that the expenditures for fuel do not exceed the market price of the fuel;
- 2) cover any costs incurred in connection with performing obligations arising from legislation and from the conditions of the authorisation;
- 3) cover the justified cost of capital;
- 4) ensure a justified return on capital.

(5) The Minister in charge of the policy sector may, if necessary, establish a list of particulars to be included in the application mentioned in subsection 3 of this section and the rules for the filing of such particulars.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

§ 59¹. Conditions of support

(1) The following conditions must be met in order to be eligible for the support mentioned in § 59 and 59⁴–59⁶ of this Act:

- 1) the electricity is generated by means of a generating installation conforming to the requirements of this Act, the grid code and the network code on the functioning of the electricity market;
- 2) the producer fulfils the obligations provided by Chapter 4 and § 58 of this Act;
- 3) measurable data to be stated in the application for support concerning the quantity of fuel, the determination of calorific value of the fuel and the amount of heat generated in the cogeneration process have been verified following § 59³ of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The producer is not granted the support mentioned in §§ 59 and 59⁴–59⁶ of this Act:

- 1) if the State has paid the producer – who generates electricity using wind as the source of energy – an investment support for the relevant generating installation, and the producer has not reimbursed the investment support to the State;
- 2) if the producer lacks the environmental authorisations required in order to generate electricity or is in breach of the conditions stated in such authorisations;
- 3) for electricity generated for the power station's own consumption;
- 4) for electricity generated when, in Estonia's price area of the power exchange, negative market price was in effect on the day-ahead market;
- 5) for electricity generated in the framework of a cooperation project mentioned in § 92⁵ of this Act;
- 6) if the producer is an undertaking in difficulty within the meaning of the European Commission's guidelines on state aid for rescuing and restructuring non-financial undertakings in difficulty;
- 7) if the producer is not in compliance with an obligation to repay state aid that has been declared unlawful and incompatible with the internal market by a decision of the European Commission.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) The application mentioned in subsection 2 of § 59 of this Act states the particulars of the generating installations, the information required by legislation in order to receive the support and any information which the transmission network operator has listed as required in order to determine the origin of the electricity where the origin and amount of the electricity cannot be established unequivocally.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4) [Repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) A producer who uses wind as the source of energy and who complies with the condition mentioned in subsection 2² of § 59 of this Act may receive support until support has been paid in Estonia for a total amount of 600 GWh electricity generated from wind energy in the calendar year. Separate accounts are kept in respect of each calendar year.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) Having regard to the objectives provided by Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 05.06.2009, pp. 16–62), the transmission network operator publishes on its website the following information:

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

1) the estimated amount of electricity to be produced from a renewable energy source and in a high-efficiency cogeneration process in the following calendar month and the following calendar year;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2) data concerning the amount of electricity generated from wind energy during the given calendar year by calendar month;

2¹) the amount of electricity generated in the previous calendar year from a renewable energy source;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2²) the amount of electricity generated in the previous calendar year in a high-efficiency cogeneration process;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2³) final consumption of electricity in the previous calendar year;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2⁴) the proportion in per cent of electricity produced in the previous calendar year from a renewable energy source and in a high-efficiency cogeneration process, based on clauses 2¹–2³ of this subsection;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) an estimate for achieving the amount of electricity mentioned in subsection 5 of this section for the current calendar year based on the amount of electricity actually generated from wind energy during preceding months;

4) a list of the particulars mentioned in subsection 3 of this section and the rules for the filing of those particulars.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(8) Where a producer who has won a reverse auction announced under subsection 5 of § 59⁴, subsection 1 of § 59⁵ or subsection 1 of § 59⁶ of this Act transfers a generating installation used for their reverse auction bid after having accepted the order mentioned in subsection 11 of § 59⁴, subsection 5 of § 59⁵ or subsection 8 of § 59⁶, the right to receive support passes to the new owner of the installation who must be a producer of electricity.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 59². Funding of support

(1) The cost of funding the support mentioned in § 59, 59⁴ and 59⁶ of this Act and justified costs for administering that support, as well as justified costs for administering the electronic database of certificates of origin that is mentioned in § 32⁷ of the Energy Sector Organisation Act concerning biomethane, hydrogen, liquefied gas, electricity or heating or cooling energy is borne by consumers, taking into consideration the volume of network services used and the amount of electricity consumed via a direct line.

[RT I, 18.05.2022, 1 – entry into force 28.05.2022]

(2) The transmission network operator compiles and publishes on its website by 1 December each year an estimate for the next calendar year concerning the cost of funding the support mentioned in §§ 59 and 59⁴ of this Act for electricity generated from renewable energy sources or in a high-efficiency cogeneration process, concerning the volume of network services to be provided to consumers and concerning the amount of electricity to be consumed via direct lines. Where this is justified, the transmission network operator has a right to adjust, during the current calendar year, the estimate mentioned in this subsection and the cost of funding the support.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) At the demand of the transmission network operator, the distribution network operators and line possessors present their estimates for the next calendar year concerning the volume of network services they expect to provide and the amount of electricity they expect to be consumed via direct lines.

(4) Based on the estimate mentioned in subsection 2 of this section, the transmission network operator determines the cost of funding the support in the following calendar year per one kilowatt-hour of network services used and of electricity consumed via direct lines, taking into account any sums by which the funding of the support mentioned in §§ 59, 59⁴ and 59⁶ of this Act during the 12 months immediately preceding the compilation of the estimate overshoot the total of support payments or fell short of that, the interest earned on sums by which the funding overshoot the estimate or the interest paid on sums by which the funding fell short of the estimate, the revenue received under statistical transfer agreements mentioned in subsection 1 of § 92⁴ of this Act such that it exceeds the cost of funding the support payable to the producers for quantities of energy required to perform the agreement, as well as the justified costs incurred as a result of administering the payment of support mentioned in §§ 59 and 59⁴–59⁶ of this Act and the electronic database of certificates of origin mentioned in § 32⁷ of the Energy Sector Organisation Act concerning biomethane, hydrogen, liquefied

gas, electricity or heating or cooling energy. The transmission network operator publishes on its website the cost of funding the support together with the underlying data and calculation methods.
[RT I, 18.05.2022, 1 – entry into force 28.05.2022]

(5) The network operator presents the consumer an invoice for network services and for electricity consumed via a line possessor's direct line, setting out as a separate item the cost of funding the support for electricity generated from renewable energy sources and electricity generated in an efficient cogeneration process.

(6) The distribution network operator and the line possessor present, to the transmission network operator, by the fifth day of every month, information regarding the amount of network services provided and regarding the amount of electricity consumed via a direct line.

(7) The transmission network operator, based on the information mentioned in subsection 6 of this section, by the seventh day of every month presents an invoice to the network operator or line possessor for the funding of the support. The amount specified in the invoice must be paid to the transmission network operator by the 21st day of the month, regardless of whether consumers have paid for the funding of the support.

(8) If the information mentioned under subsection 6 of this section is not presented by the due date, the transmission network operator has a right to issue an invoice based on an estimate of the consumption by the consumers of the distribution network operator or line possessor. When accurate information is received, the transmission network operator sets off the accounts on the invoice for the next month.

(9) The transmission network operator pays the support mentioned in § 59 of this Act to the producer on the 21st day of the calendar month if the requirements provided by § 59¹ have been met.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 59³. Reports concerning fuel used to generate electricity

(1) The producer ensures measurement of the quantity of fuel used to generate electricity.

(2) The producer determines and documents, in the fuel report, the calorific value of the fuel used to generate electricity.

(3) The Minister in charge of the policy sector enacts, by regulation, the list of particulars of a report concerning fuel used to generate electricity and the rules for filling out and for provision of evidence for such a report.

(4) At the demand of the transmission network operator, the producer presents to that operator the report concerning fuel used to generate electricity.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 59⁴. National objective of generating electricity from renewable energy sources and by high-efficiency cogeneration, and attainment of that objective

(1) Under this section, support is paid in order for 40 per cent of Estonia's total final consumption of electricity in 2030 to be produced from a renewable energy source.
[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(2) [Repealed – RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(3) [Repealed – RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(4) By 1 April each year, the Ministry of Economic Affairs and Communications compiles an overview of the progress towards attaining the objectives mentioned in subsection 1 of this section and compiles an estimate of the additional quantity of electricity required to attain those objectives. The compiling of the aforementioned overview is based on the particulars published in accordance with clauses 1–3 of subsection 7 of § 59¹ of this Act. The overview is published on the website of the Ministry.

(5) If, according to the estimate, the objectives provided by subsection 1 of this section will not be attained, the Government of the Republic authorises the Minister in charge of the policy sector to arrange a public reverse auction in order to find the most advantageous producer to generate the quantity of electricity required to attain the objective.

(5¹) The Government of the Republic, when authorising arrangements for a reverse auction under subsection 5 of this section, determines at least the following:

- 1) the date on which generation is to commence and the period during which generation must take place;
- 2) the type and maximum quantity, per calendar year, of supported electricity that is the subject matter of a bid;
- 3) the minimum period during which the bid remains effective;
- 4) the deposit related to a bid and the conditions of its payment;
- 5) the upper limit of the support for the winner of the auction.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(5²) Depending on the needs of the power system, a reverse auction may be intended for producing, from a renewable energy source, additional electricity that is generated by:

- 1) a new adjustable-capacity generating installation;
 - 2) an existing generating installation or
 - 3) a new generating installation whose capacity is not adjustable.
- [RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(5³) For the purposes of this Act, ‘generating installation whose capacity is not adjustable’ means an installation whose generated amount of electricity the producer cannot adjust on order of the system operator.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(5⁴) For each megawatt-hour of generated electricity, the upper limit of the support mentioned in clause 5 of subsection 5¹ of this section does not exceed:

- 1) 50 euros for a generating installation mentioned in clause 1 of subsection 5²;
 - 2) 10 euros for a generating installation mentioned in clause 2 of subsection 5², provided that the amount received, together with the arithmetic mean power exchange price of the day-ahead market in the Estonian price area for the calendar month preceding the calendar month during which the support is disbursed, does not exceed 60 euros;
 - 3) 30 euros for a generating installation mentioned in clause 3 of subsection 5²;
- [RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(5⁵) Where a reverse auction has been won by a producer with a generating installation mentioned in clause 2 of subsection 5² of this section, the producer provides, to the holder of the auction, at the latest by 1 February each year, an overview of the purchase prices of fuel used during the last calendar year in the framework of using the support.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(5⁶) Where, based on the purchase prices mentioned in subsection 5⁵ of this section, the holder of a reverse auction concludes that overcompensation may be occurring in relation to the owner of the generating installation mentioned in clause 2 of subsection 5² of this section, the Minister in charge of the policy sector makes a proposal to the Government of the Republic to reduce the rate of the support stated in the Government’s order in respect of the producer in question such that that rate would not permit the producer to generate electricity at a profit that is higher than the average for the electricity generating sector.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(5⁷) Overcompensation occurs in relation to a producer mentioned in subsection 5⁶ of this section if the difference between the support and the purchase prices of fuel allows the producer to generate electricity at a profit that is higher than the average of the sector.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(6) In addition to Estonian legal persons, participation in a reverse auction is open to legal persons from countries of the European Economic Area, provided the law of the country of domicile of the legal person permits Estonian legal persons to participate in a similar reverse auction in that country.

(7) Electricity cannot be bid in a reverse auction if it has been generated from a renewable energy source and has been used to contribute, during up to 12 months preceding the auction, to achieving the aim provided by subsection 1 of this section – or if it has been generated by a generating installation for whose electricity, by the time the reverse auction is announced, the producer has, under §§ 59, 59⁵ or 59⁶ of this Act, received support for a total period of 12 years.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(8) If a generating installation that participates in a reverse auction has received investment support on behalf of the State, a proportion of the investment support corresponding to the period of operating support must be deducted from the rate of the support mentioned in this section.

(9) [Repealed – RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(10) The conditions and rules of a reverse auction are enacted by an order the Government of the Republic. When enacting the conditions and rules of such an auction, the Government follows the guidelines mentioned in subsection 2¹ of § 59 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(11) At the proposal of the Minister in charge of the policy sector, the Government of the Republic decides, by order, the producer to generate an additional quantity of electricity determined under subsection 5 of this section,

and to receive, for up to 12 years starting from commencement of generation, support based on the results of the reverse auction.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(12) The Government of the Republic has a right to revoke the order mentioned in subsection 11 of this section if the winner of the reverse auction does not comply with the conditions prescribed in the auction. The order may also be revoked if, at the latest 18 months after the issuing of the order, the winner has not obtained a building permit for the generating installation, and has not concluded a connection contract for connecting the installation to the network.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 59⁵. The objective of generating energy from a renewable energy source for statistical energy transfers and attainment of that objective

(1) If the need to produce an additional quantity of electricity from a renewable energy source in order to fulfil the agreement mentioned in subsection 1 of § 92⁴ of this Act becomes apparent, the Government of the Republic authorises the Minister in charge of the policy sector to arrange a public reverse auction to find the most advantageous producer.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The reverse auction is not open to electricity produced by a generating installation for which the producer, at the time when the reverse auction is announced, already receives the support mentioned in this section or in §§ 59, 59⁴ or 59⁶ of this Act, or energy that, at the time the reverse auction is announced, already contributes to meeting the objectives provided by Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) The reverse auction is subject to the condition provided by subsection 8 of § 59⁴ of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(4) The conditions and rules for reverse auctions are enacted by an order the Government of the Republic.

When enacting such conditions and rules, the Government follows the guidelines mentioned in subsection 2¹ of § 59 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) At the proposal of the Minister in charge of the policy sector, the Government of the Republic determines, by order, the quantity of energy required to fulfil the agreement mentioned in § 92⁴ of this Act and the producer who will be paid support based on the results of the reverse auction mentioned in subsection 1 of this section for the period during which the relevant statistical transfer agreement is in effect. The annual cost of the support must not exceed the annual income received by the transmission network operator under the agreement mentioned in subsection 1 of § 92⁴ of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) Where a producer who made the best bid in a reverse auction mentioned in subsection 1 of this section uses biomass to produce energy, the Ministry of Economic Affairs and Communications, before the order mentioned in subsection 5 is brought into effect, and before the agreement mentioned in subsection 1 of § 92⁴ of this Act is concluded, presents to the Government of the Republic an analysis of the effect that the procurement of the quantity of biomass required to produce the energy will have on the Estonian wood market. The analysis is performed based on the principles stated in the strategic plan mentioned in § 7 of the Forest Act. Before concluding the agreement, the Government hears the opinions of the Committee on Economic Affairs and the Committee on Environment of the *Riigikogu*.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) The Government of the Republic has a right to revoke the order mentioned in subsection 5 of this section if the winner of the reverse auction does not comply with the conditions they agreed to under the auction or if, at the latest 18 months after the issuing of the order, the winner has not obtained a building permit for the generating installation, and has not concluded a connection contract for connecting the installation to the network.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 59⁶. Reverse auction of generating installations that have an electrical capacity of less than 1 MW and that use a renewable energy source

(1) Under this section, support is paid under the rules of a reverse auction for electricity produced by generating installations that use a renewable energy source and that have an electrical capacity of more than 50 kW and less than 1 MW with the objective of increasing the annual generation of electricity by such producers in the years 2019–2021 by 5 GWh.

(2) The objectives of reverse auctions for generating installations mentioned in subsection 1 of this section that will come into effect after the year 2021 are to be established by a resolution of the *Riigikogu*.

(3) The Government of the Republic presents the objectives mentioned in subsection 2 of this section to the *Riigikogu* for approval at least 3 months before their estimated adoption.

(4) The reverse auction is arranged for by the Minister in charge of the policy sector.

(5) The conditions and rules of a reverse auction are established by an order the Government of the Republic. When establishing such conditions and rules, the Government follows the guidelines mentioned in subsection 2¹ of § 59 of this Act.

(6) The reverse auction is open only to bids for the production of electricity by a generating installation that will begin to generate electricity for the first time after determination of the winner of the auction and for which no investment support has been paid on behalf of the State.

(7) The highest rate of the support to be granted to the winner of the reverse auction is 0.0537 euro for each kilowatt-hour of electricity generated from a renewable energy source, determining the rate of the support such that the payment received by the producer, including the average exchange price of electricity in the day-ahead market in the Estonian price area for the calendar month preceding the calendar month in which the support is paid, does not exceed 0.093 euro for each kilowatt-hour.

(8) The Government of the Republic decides, by order, the producer who will generate the additional quantity of electricity determined within the framework of the reverse auction, and who will, for 12 years starting from commencement of production, be paid support based on the results of the reverse auction.

(9) The Government of the Republic has a right to revoke the order mentioned in subsection 8 of this section if the winner of the reverse auction does not comply with the conditions prescribed in the auction.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 59⁷. Requiring a deposit in relation to a bid; returning the deposit

(1) Any participant of a reverse auction mentioned in §§ 59⁴–59⁵ of this Act who participates in such an auction with a generating installation whose electrical capacity exceeds 1 MW provides, to the holder of the auction, a deposit whose amount is determined by the Government of the Republic when making a decision to arrange for the auction.

(2) The amount of the deposit may not exceed 20 euros for each megawatt-hour of the yearly generation capacity stated in the reverse auction notice.

(3) The deposit may take the form of:

- 1) a guarantee issue by a credit or financial institution or an insurance provider;
- 2) a cash deposit that has been paid into the current account of the holder of the reverse auction mentioned in the regulation enacted under subsection 10 of § 59⁴ or subsection 4 of § 59⁵ of this Act.

(4) Where a bidder is not declared winner of the reverse auction, the holder of the auction returns the deposit to the bidder within five business days following the entry into effect of the order mentioned in subsection 11 of § 59⁴ or subsection 5 of § 59⁵ of this Act.

(5) Where a bidder is declared winner of the reverse auction, the holder of the auction returns the cash deposit to the bidder, or notifies the issuer of the guarantee provided as the deposit of the holder's renouncement of rights held under the guarantee within five business days following the time starting from which the winner is generating power at the yearly capacity stated in the order mentioned in subsection 11 of § 59⁴ or subsection 5 of § 59⁵ of this Act.

(6) The cash deposit is not returned to the winner of the reverse auction and it passes to the State or, with respect to a deposit provided for by clause 1 of subsection 3 of this section, the holder of the auction has a right to require the issuer of the guarantee to make the corresponding payment if:

- 1) during the first 12 months following the generation commencement date stated in the order mentioned in subsection 11 of § 59⁴ or subsection 5 of § 59⁵ of this Act, the winner of the auction is not generating power to the extent of at least 60 per cent of the annual amount stated in the order or, during the first 24 months, to at least 80 per cent, or
- 2) the order mentioned in subsection 11 of § 59⁴ or subsection 5 of § 59⁵ is revoked under subsection 12 of § 59⁴ or subsection 7 of § 59⁵.

(7) Any cash deposit funds that have passed to the State under subsection 6 of this section and any funds received from an issuer of a guarantee are used to fund the support allocated under subsection 4 of § 59² of this Act in the year in which such funds passed to, or were received by, the State. If the amount that passed to the

State or was received from an issuer exceeds the cost of funding such support in the relevant year, the funds that have not been used are charged to State revenue.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 59⁸. Holder of a reverse auction

(1) A reverse auction provided for by §§ 59⁴–59⁶ of this Act is held by the transmission network operator.

(2) The holder of a reverse auction:

- 1) verifies whether the bids that have been made, and the generating installations, meet the requirements established in legislation;
- 2) returns any bid, if the bid, or the generating installation, does not meet those requirements;
- 3) establishes a ranking order of bids that meet the requirements and makes a proposal to the party that arranged for the auction concerning producers to be paid the support;
- 4) in a situation mentioned in subsection 56 of § 59⁴ of this Act, makes a proposal to the party arranging the auction to change the rate of the support for the winner of the auction;
- 5) where a circumstance mentioned in subsection 12 of § 59⁴ or subsection 7 of § 59⁵ of this Act is ascertained, makes a proposal to the party that arranged for the auction to revoke, in respect of the winner, the order mentioned in subsection 11 of § 59⁴ or subsection 5 of § 59⁵.

(3) The holder of a reverse auction has a right to verify whether the winner of the auction complies with the conditions stated in the order mentioned in subsection 11 of § 59⁴, subsection 5 of § 59⁵ or subsection 8 of § 59⁶.

(4) Where the holder of a reverse auction ascertains that the operations of the winner of the auction do not meet the requirements of this Act or the legislation enacted under it, the holder may:

- 1) where the generating installation mentioned in the winner's bid has been completed by the due date stated in the auction notice but electricity generation by means of that installation has not commenced by that date, set a time limit of up to six months to the winner to commence generation;
- 2) suspend the payment of support to the winner until the requirements are met;
- 3) make a proposal to the party that arranged for the auction to vary the order of the Government of the Republic and not to pay the support to the winner, or to reduce such support.

(5) Specific rights and duties of the holder of a reverse auction in reverse auction proceedings are enacted by a regulation of the Government of the Republic mentioned in subsection 10 of § 59⁴, subsection 4 of § 59⁵ or subsection 5 of § 59⁶ of this Act.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

Chapter 6 NETWORK OPERATIONS

Subchapter 1 General Rules for Network Operations

§ 60. Construction of network and provision of network services

(1) A network or a line may be constructed and/or network services may be provided in the service area indicated in the authorisation of a distribution network operator only by the distribution network operator. This does not apply if in the service area of the distribution network operator:

- 1) a transmission network is constructed and network services are provided through this network by the transmission network operator;
- 2) a direct line is constructed and used in accordance with § 61 of this Act and the relevant authorisation – where an authorisation is required under this Act;
- 3) a direct current line that crosses the national border is constructed and it is used in accordance with § 61 of this Act and the corresponding authorisation;
- 4) a closed distribution network is being built or electricity is being conveyed in a closed distribution network.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) It is not contrary to subsection 1 of this section when:

- 1) an electrical installation which belongs to another distribution network operator is located in or crosses the service area defined in the authorisation issued to the distribution network operator and network services are provided to the distribution network operator through the electrical installation;
- 2) an electrical installation which belongs to another distribution network operator is located in or runs across the service area defined in the authorisation issued to the distribution network operator, and network services are not provided to consumers located in the area through the electrical installation;

3) another distribution network operator reconstructs an electrical installation which it owns in the service area defined in the authorisation issued to the distribution network operator and network services are not provided to consumers in the area through the electrical installation.

4) there is a direct line in the service area defined in the authorisation issued to the distribution network operator.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 60¹. Creation of micro isolated networks

(1) In a micro isolated network, network services are provided by the distribution network operator in whose service area the micro isolated network is located.

(2) A micro isolated network is created in the following situations:

1) to fulfil the obligations incumbent on the distribution network operator by virtue of legislation or
2) in a sparsely populated area where consumption density is less than 15 megawatt-hours per kilometre of power line.

(3) To create a micro isolated network under clause 2 of subsection 2 of this section, the following conditions must be met:

1) the micro isolated network is economically justified;
2) performance of the network contract vis-à-vis consumers in the micro isolated network is guaranteed on standard terms of provision of network service that have been approved under subsection 1 of § 73 of this Act.

(4) No micro isolated network may be created in an area in which the consumer is a provider of vital service or occupant of a national defence installation.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 61. Direct line and line crossing the national border

(1) A consumer or an electricity undertaking has a right to construct and use a direct line in order to supply electricity to itself or to consumers or to an undertaking belonging to the same group as the electricity undertaking only if:

[RT 29.06.2018, 2 – entry into force 09.07.2018]

1) the direct line is built on the immovable on which the producer's power station is located, on an adjacent immovable or to an electrical installation located at a distance of up to six kilometres from the generating installation;

[RT 29.06.2018, 2 – entry into force 09.07.2018]

2) due to the need to modify the network contract entered into with the network operator under § 83 of this Act the builder of the direct line has agreed with the network operator the terms and conditions of consumption or production or has agreed to amend those terms and conditions for reasons related to the construction of the direct line and the connection of the generating installation to the network;

3) the builder of the direct line has presented to the network operator information regarding the maximum rated operating voltage of the line, the length of the line, its geographic coordinates, its layout and other principal technical parameters.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(1¹) A line possessor installs a metering device which meets the requirements established in legislation in order to determine the amounts of electricity conveyed via its line and ensure the collection and processing of metering data according to this Act and the network code on the functioning of the power system.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(1²) A direct line may be constructed in an area other than the area mentioned in clause 1 of subsection 1 of this section only if at least one of the following conditions is met:

[RT 29.06.2018, 2 – entry into force 09.07.2018]

1) the network operator has refused to connect the electrical installation of the consumer, producer or seller to the network or to provide other network services on grounds other than those mentioned in clauses 1 and 2 of subsection 3 of § 65 of this Act and if contesting such a refusal with the Competition Authority in accordance with § 99 of this Act has not yielded a solution which would ensure the requested electricity supply to the consumer, producer or seller;

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

2) the network operator in whose service area the direct line is envisaged to be constructed gives its written consent to the construction and use of the direct line.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(2) [Repealed – RT 29.06.2018, 2 – entry into force 09.07.2018]

(3) [Repealed – RT 29.06.2018, 2 – entry into force 09.07.2018]

(4) A direct current line which crosses the national border and which has a voltage exceeding 10 kV is connected to the transmission network in the location determined by the transmission network operator and in compliance with the technical conditions established by the transmission network operator.

(5) An alternating current line which crosses the national border and which has a voltage exceeding 35 kV may be constructed and used only by a network operator who holds the authorisation for the activity mentioned in clause 4 of subsection 1 of § 22 of this Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(6) If a market participant wishes to preserve the capacity of an existing network connection when using a direct line, such a participant pays to the network operator the charge mentioned in clause 3 of subsection 1 of § 71 for being allowed to use the connection.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 62. Service area

(1) The service area of a distribution network operator is the area which is stated in the decision to issue an authorisation to the operator and determined by the national border and/or geographical coordinates.

(2) The service area of the transmission network operator is the territory of Estonia.

(3) A network operator has one service area consisting of one or more defined areas.

(4) The service areas of distribution network operators may not overlap.

§ 63. Modification of service area

(1) Distribution network operators may mutually agree to modify their service areas such that the territory covered by the service areas of such distribution network operators before the modification remains so covered after the modification.

[Repealed – RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) Distribution network operators transmit, to the Competition Authority, a notification concerning any modification to the service areas mentioned in subsection 1 of this section and the relevant agreement they have concluded concerning such a modification. The notice states information that allows the distribution network operators and the new boundaries of their service areas to be determined in accordance with subsection 1 of § 62 of this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The distribution network operators also give notice of any modifications of the service area to any consumers affected by the modification.

(4) Within 30 days following receipt of a notification mentioned in subsection 2 of this section, the Competition Authority, as a single exercise, makes the corresponding amendments to the information concerning the service areas mentioned in the decisions to issue authorisations to the distribution network operators.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) A modification of a service area becomes effective when the Competition Authority has, as a single exercise, made the corresponding amendments to the information concerning the service areas mentioned in the decisions to issue authorisations to the distribution network operators and when any consumers affected by the modifications have been notified of the same.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) Distribution network operators notify consumers of any modifications to service areas in at least one daily newspaper of national circulation.

§ 64. Network owner

(1) Where the owner of the network is not a network operator who holds an authorisation for the provision of network services through that network, the owner ensures that the network is used by a network operator who holds the required authorisation and who is responsible for performance of the obligations of the network operator as provided by legislation and for compliance with the conditions of the authorisation.

(1¹) A network operator whose service area includes consumers who have previously been connected to a network mentioned in subsection 1 of this section must continue to provide network service to those consumers under the same technical conditions, taking into account the state of repair and the capacity of the network which it has been given to use.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(1²) A network operator mentioned in subsection 1¹ of this section bears the cost of assuming the use of the network mentioned in subsection 1 of this section. If assuming the use of the network is technically not possible

or not expedient, a consumer's installation that is connected to that network is connected by the network operator to its own network at its own expense.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1³) Where a network has been built in the period from 1 July 2003 to 30 June 2018 by a person other than a network operator holding a corresponding authorisation, the costs of handing over the network to be used by a network operator mentioned in subsection 1¹ of this section is borne jointly and severally by the owner with the possessor of the network who uses the network to convey and sell electricity to the consumer. Where handing over the network is technically not possible or not expedient, a consumer's installation which is connected to that network is connected by the network operator to its own network and the costs are borne jointly and severally by the owner and the possessor.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1⁴) Where a network is built after 1 July 2018 by a person other than a network operator holding a corresponding authorisation, the costs of handing over the network to be used by a network operator mentioned in subsection 1¹ of this section are borne jointly and severally by the owner and the possessor of the network who uses the network to convey and sell electricity to the consumer. The network operator is not obligated to assume the use of such a network.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1⁵) The owner of the networks mentioned in subsections 1, 1³ and 1⁴ of this section ensures that electricity is conveyed to consumers who are connected to its network under a connection contract on the technical conditions agreed with the consumer until the use of that network is assumed by a network operator holding the relevant authorisation. The owner of the network may interrupt the network connection only under the rules provided by § 90 of this Act.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1⁶) Where, in order to consume or generate electricity, a person has, after 1 April 2022, connected their electrical installation to another such installation which is not a distribution network operator's network, the person undertakes to apply for connection to the distribution network operator's network in order to use network service.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) Where the owner of a network transfers the network to another person, the owner notifies this to the Competition Authority without delay. The notification states the names, personal identification codes or registration numbers in the Commercial Register and contact details of the transferor and transferee as well as information that makes it possible to identify the transferred network.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) On a corresponding application, the Competition Authority may release a network owner from performance of the obligation mentioned in subsection 1 of this section if the network owned by the owner is located in the service area of another network operator and is not required for supplying electricity to consumers.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) The provisions of this section do not apply to closed distribution networks.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(5) Subsections 1–1⁵ of this section do not apply to energy communities.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

Subchapter 2

Obligations of Network Operators

§ 65. Provision of network services

(1) A network operator provides the following network services to consumers, energy communities, producers, line possessors or any other network operators within its service area:
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

- 1) on a corresponding application, connection to the network at the connection point of any electrical installation which conforms to the requirements and which is located in its service area;
- 2) on a corresponding application, amendment of the conditions of consumption or of generation;
- 3) allowing a network connection to be used at the connection point;
- 4) transmitting electricity through its network to the connection point or from the connection point;

4¹) with regard to granting a connection to a generating installation or to modifying the conditions of generation or consumption in the micro isolated network located in the service area of the distribution network operator, the consumption demand required for the provision of network service is lacking;
[RT 29.06.2018, 2 – entry into force 09.07.2018]

5) ensuring the installation of a metering device conforming to the requirements of legislation to determine the amounts of electricity transmitted through its network;
6) ensuring the collection and processing of metering data;
7) provision of supplementary services directly related to the network services mentioned in clauses 1–6 of this subsection.

(1¹) A distribution network operator engages in cooperation with an energy community to facilitate conveying any electricity that has been generated by the community for consumption to members of that community.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) The network operator observes the principle of equal treatment of market participants when providing network services.

(3) The network operator has a right to refuse to provide network services if:

- 1) the electrical installations of the user of network services do not conform to the requirements of legislation or to the technical conditions established by the network operator for connection to the network;
- 2) the provision of network services is not possible for any other reason due to the user of network services;
- 3) the provision of network services is not possible for reasons independent of the network operator;
- 4) the network of the network operator lacks the necessary transmission capacity for the provision of network services;
- 5) the corresponding right of the network operator arises on any other grounds provided by this Act.

(3¹) The transmission network operator may not refuse to connect a new electricity generation or energy storage unit to the network for the reason that, in future, available transmission capacity within the meaning of point 4 of Article 2 of Regulation (EU) 2019/943 of the European Parliament and of the Council may prove inadequate.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4) The network operator states the reasons for any refusal to provide a network service. The reasons must include a reference to the legal basis for the refusal. The network operator notifies the Competition Authority of its refusal to provide network services on the grounds provided by clauses 4 and 4¹ of subsection 3 of this section.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(5) The Minister in charge of the policy sector enacts, by regulation, quality requirements for network services and conditions for the reduction of network charges in the event that those quality requirements are violated.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(6) Establishment of the conditions for the reduction of network charges is based on the duration of power interruptions.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(7) The network operator publishes on its website information regarding the network services and their prices and regarding the method which consumers can use to access their consumption data.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(8) In a situation where a consumer has expressed a corresponding request, the network operator communicates the consumption data of such a consumer to the consumer in accordance with the form for exchange of data provided by the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019; in part amended [RT I, 13.03.2019, 2]]

(9) The distribution network operator may terminate its operations only if it has assigned its obligations under this section to another distribution network operator having regard to the provisions of subsection 4² of § 91 of this Act.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(10) At least 12 months prior to the termination of its operations, the distribution network operator must notify this to the Competition Authority in writing and to present an overview of the action plan that ensures compliance with the requirements provided by this section.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 66. Network development obligation

(1) A network operator develops the network within its service area such as to ensure the continued provision, in accordance with legislation and the conditions of its authorisation, of network service to all consumers, energy communities, producers, line possessors and any other network operators connected to the network, having regard to their justified needs, and to ensure that a market participant's electrical installation which meets established requirements and is located within the service area of the operator can be connected to the

network. When developing the network, the network operator acts with a view to the need to ensure the security of supply, to achieve efficiency and the integration of markets, having regard to the research conducted in these fields.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) By 15 April each year, a distribution network operator presents, to the Competition Authority and the transmission network operator, a written estimate that is as precise as possible, of the total prognosticated demand for usage capacity within its service area for each of the seven years following the estimate's presentation. The distribution network operator also states the preconditions on which its estimate is based.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(3) By 15 June each year, the transmission network operator presents to the Competition Authority a written estimate which is as precise as possible, of the total prognosticated demand for usage capacity in the entire transmission network for each of the seven years following presentation of the estimate. The transmission network operator also indicates the premises on which its estimate is based.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(4) Together with the estimate mentioned in subsections 2 and 3 of this section, the network operator presents a detailed written plan to the Competition Authority on how it intends to provide network services to satisfy the likely demand for usage capacity indicated in the estimate.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) If, based on the estimate mentioned in subsection 2 or 3 of this section or the plan mentioned in subsection 4, or by another method, the Competition Authority finds that the operations envisaged by the distribution network operator may prove insufficient in order to ensure the provision of network services in accordance with the justified needs of the users of such services, the Competition Authority communicates its position to the distribution network operator and to the transmission network operator. The position must state its reasons.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) The distribution network operator and the transmission network operator present their written opinion on the position of the Competition Authority to the Authority within thirty days following receipt of the Authority's position.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(7) Having regard to the reasoned positions expressed in the opinions mentioned in subsection 6 of this section, the Competition Authority decides whether the network operator must implement general measures in its network as a whole in the future, and which measures they should be, to ensure the provision of network services in accordance with the justified needs of the users of network services. If necessary, the Competition Authority issues a corresponding compliance notice to the network operator or varies the conditions of the authorisation of the network operator.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(8) Development and use of flexibility services in a network must be based on a transparent ten-year plan for network development, which the network operator formulates at least after every two years.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(9) In a network development plan, a distribution network operator states:

- 1) any mid-term or long-term flexibility services required;
- 2) envisaged investments for the next five to ten years;
- 3) the possibilities for connecting new-generation generating capacity and new loads, including electric vehicle recharging points, to the network;
- 4) any other means which the operator intends to use as an alternative to network extension.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(10) When formulating a network development plan, a distribution network operator consults with users of connections to its network and with the transmission network operator, publishes on its website the results of the consultations together with the development plan and files the plan with the Competition Authority. The Authority may request amendments to be made to the plan.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(11) A user of a connection to the network is a natural or legal person who sells electricity to the distribution or transmission network or to whom electricity is sold from that network.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(12) In the network development plan, the transmission network operator states:

- 1) principal elements of transmission infrastructure that must be built or renovated during the next ten years;
- 2) a list of investments which have already been decided or which have to be made within the next three years;
- 3) a timeline of investment projects;

- 4) any flexibility services to be used in lieu of network extension;
 - 5) estimated consumption;
 - 6) possibilities for trading with other countries;
 - 7) investment plans for European Union and regional networks in accordance with Article 48 of Regulation (EU) 2019/943 of the European Parliament and of the Council;
 - 8) any ancillary services required.
- [RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(13) When formulating the network development plan, the transmission network operator consults with stakeholders, publishes the plan on its website and files it with the Competition Authority.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(14) When reviewing the network development plan, the Competition Authority consults with all users of connections to the network and may apply for amendments in the plan. The Authority publishes on its website the results of consultations concerning the ten-year plan for network development and the required investment needs and monitors implementation of the plan.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(15) The transmission network operator engages in cooperation with the regional coordination centre and takes into account any recommendations that the centre makes with a view to improving the performance of the operator's tasks.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(16) The transmission network operator manages flows in the transmission network having regard to electricity trading with any other transmission or distribution networks that are connected to its network and to one another.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 66¹. Arrangements concerning the purchase of electricity in micro isolated networks

(1) In a micro isolated network, the producer invests in the production of electricity and the distribution network operator concludes agreements to ensure the security of investments, following the rules provided by the Public Procurement Act, having regard to the principles provided by subsection 1 of § 1 of this Act.

(2) If, in a micro isolated network, the need arises to create additional generation capacity, or if the period of the agreement corresponding to subsection 1 of this section expires, the distribution network operator arranges the production of the electricity required, having regard to the requirements provided by the Public Procurement Act and in this section. Preference is given to electricity generated from a renewable energy source, taking into consideration the requirements of the security of supply.

(3) In a micro isolated network, the distribution network operator and the producer of electricity may be one and the same person.

(4) If the distribution network operator arranges, in a micro isolated network, for the production of electricity by a producer subject to a production obligation, the conditions of the envisaged agreement must contain at least the following particulars:

- 1) the production capacity purchased;
- 2) the annual quantity of electricity to be purchased;
- 3) the period of the agreement;
- 4) the annual electricity consumption curve;
- 5) the requirements of the security of supply;
- 6) the conditions on which costs that the network distribution operator may incur in the event of failure to meet the requirements of the security of supply are to be covered.

(5) The provisions of this section do not exempt a distribution network operator from the obligation to present its network charges and standard terms to the Competition Authority for approval following the rules provided by § 73 of this Act.

(6) The network operator publishes on its website the start and end dates of the agreements that it is party to and that have been mentioned in subsection 4 of this section, together with the production capacity and the annual quantity of electricity to be purchased as reflected in those agreements.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 66². Flexibility services

(1) In order to find flexibility service providers to improve efficiencies in the operation and development of the distribution network, the distribution network operator conducts a public procurement procedure. When conducting the procedure, the operator must not give preference to any undertaking associated with it.

(2) A distribution network operator obtains approval for the conditions of the public procurement procedure mentioned in subsection 1 of this section from the Competition Authority. The Authority may decide not to approve the conditions if these do not observe the principles of equal treatment and transparency.

(3) A distribution network operator is not required to use the flexibility services provided for by subsection 1 of this section if it has ascertained that using such services would be economically inefficient or lead to serious market distortions or cause congestion. The operator files a reasoned application with the Competition Authority for not using flexibility services.

(4) The Competition Authority may decide not to grant the application mentioned in subsection 3 of this section if, in the course of verification, it comes to light that use of flexibility services is economically efficient, does not lead to serious market distortions or cause congestion.

(5) To ensure secure functioning of the network and facilitate the development of the market, the distribution network operator exchanges requisite data and coordinates its actions with the transmission network operator.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 66³. Ancillary services

(1) A distribution network operator engages in cooperation with the transmission network operator for market participants who are connected to the network to be able to efficiently participate in electricity markets. In accordance with Article 57 of Regulation (EU) 2019/943 of the European Parliament and of the Council and Article 182 of Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation, the distribution network operator and the transmission network operator agree on conditions for providing balancing services based on the resources of the distribution network.

(2) A network operator conducts a public procurement procedure to find a provider of ancillary services required to ensure secure functioning of the network. When conducting the procedure, the operator must not give preference to any undertaking associated with it.

(3) With respect to the specification of non-frequency ancillary services and to technical conditions of certain products, the network operator must first conduct a public consultation, whose results are presented to the Competition Authority together with the conditions for the public procurement procedure. The Authority may decide not to approve the conditions if these do not observe the principles of equal treatment and transparency.

(4) A network operator is not required to use the non-frequency ancillary services provided for by subsection 2 of this section, if it is the operator's assessment that the use of such services – provided externally – is economically inefficient. The operator files a reasoned application with the Competition Authority for not using ancillary services.

(5) The Competition Authority may decide not to grant the application mentioned in subsection 4 of this section if, in the course of verification, it comes to light that use of market-based non-frequency ancillary services is economically efficient.

(6) The requirement to conduct a public procurement procedure does not apply to fully integrated network components.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 67. Metering

(1) A network operator ensures that the amounts of electricity supplied to and from, or stored in, its network are determined and that metering data are collected and processed by means of metering devices that conform to technical requirements established by legislation, in accordance with legislation and the contract for the provision of network services (metering).
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) Remote reading devices are to be used in respect of market participants whose balance cannot be determined using a combination of metering and load duration curves under subsection 5 of § 46 of this Act.

(3) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) Technical requirements for metering devices used in respect of different groups of consumers and electricity undertakings are provided by the network code on the functioning of the power system.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(5) The network operator ensures that a user of network services is notified of the metering results and of the calculation, based on those results, of the charge for such network services in accordance with legislation and the relevant contract. The network operator also ensures that the seller is notified of the metering results in respect of users of network services who are connected to the network of the network operator to whom the seller sells electricity.

(6) In order to carry out metering within its service area, a network operator may, at the request of a market participant or of a seller who sells electricity to the participant, or on its own initiative, install a metering device which is technically more sophisticated than that prescribed for the market participant by this Act and the network code on the functioning of the power system, and carry out metering by means of that device. The person who made the request for the installation of a technically more sophisticated metering device reimburses to the network operator the cost of the metering device and any outlays associated with its installation as well as any reasonable additional costs incurred in order to collect and process metering data.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(7) The network code on the functioning of the power system provides the rules for calculation of the amounts of electricity supplied to or from the network and for calculation of electricity losses between a metering device and the connection point if the metering of electricity amounts is carried out elsewhere than the connection point.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(8) The network operator may perform the obligations provided by this section itself or authorise a third party to perform such obligations in part or in full.

§ 68. Unlawful use of electricity or of network services

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1) The use of electricity or network services is unlawful if there is no legal basis for the use or if requirements arising from this Act are violated, in particular if:

- 1) the metering device is damaged or its reading is tampered with or the device's operation is affected by other means;
- 2) electricity is used without a valid contract between the network operator and the seller;
- 3) the seal or verification mark on the metering device or any other device preventing access to the metering device or preventing its operation from being interfered with or recording its operation is removed or damaged;
- 4) the connection to the network of a network operator lacks a metering device which conforms to the requirements and which has been installed by the network operator.

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1¹) The activity mentioned in clause 2 of subsection 1 of this section is not deemed unlawful use of electricity or network services if:

- 1) the network operator and the seller regularly present invoices to the consumer for network services and electricity used and the consumer has paid the invoices on time;
- 2) the consumer pays for network services and the electricity used at least once every three months if no invoices have been presented;
- 3) the open supply contract of a market participant has been interrupted and the network operator to whose network the market participant's electricity installation is connected provides open supply to the market participant until the execution of a new contract.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(2) The market participant compensates the network operator for the cost of any electricity and network services used unlawfully and for any harm caused by such unlawful use and reimburses to the operator any reasonable costs incurred to determine the extent of such harm.

[RT I, 28.06.2012, 1 – entry into force 01.07.2012]

(3) The Minister in charge of the policy sector enacts, by regulation, rules for determining the amount of electricity and the volume of network services that have been used unlawfully authorisation and the cost of the electricity and network services that have been used unlawfully.

[RT I, 28.06.2012, 1 – entry into force 01.07.2012]

§ 69. Confidentiality requirement

(1) A network operator maintains as confidential any sensitive business information of a market participant that it has become privy to in the course of its operations. This provision does not apply if:

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

- 1) the information has already been made public or has become known in any manner other than through a breach of the obligations of the network operator;
- 2) disclosure of such information to a third party is necessary for performance of the operator's obligations under this Act;
- 3) the operator is required by legislation to disclose the information.

(2) The network operator observes the principle of equal treatment in publishing any information related to its work.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 70. Obligation to provide information

(1) The network operator provides the Competition Authority, at the latter's demand, with information necessary for the Competition Authority to perform the functions imposed on it by the law.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The network operator notifies the Competition Authority without delay of its merger, division, reorganisation or dissolution or of the commencement of bankruptcy or liquidation proceedings in its regard, as well as of any other circumstances that may prevent the network operator from performing the obligations mentioned in legislation or arising from the conditions of the authorisation.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The technical conditions established by a network operator for connection to its network and the principles for calculating the charge payable for connection to the network and for amendment of consumption or generation conditions (hereinafter connection conditions) must be transparent and observe the principle of equal treatment.

(4) The network operator publishes on its website the connection conditions mentioned in subsection 3 of this section.

(5) The transmission network operator makes the connection conditions known to the European Commission.

(6) A network operator publishes basic information concerning the effectiveness, quality and profitability of its network operations on its website or in at least one daily newspaper of national circulation and also communicates such information to the Competition Authority.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(7) When the Republic of Estonia Centre for Defence Investment issues the corresponding requirement, the distribution network operator provides the information to be recorded in the Register of Civil Assets. The network operator does not charge a fee for providing the information.
[RT I, 09.08.2022, 2 – entry into force 01.09.2022]

(8) The network operator provides market participants – on an equal footing – with information required for efficient access to and use of the network.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 70¹. Obligation to allow use of network infrastructure

(1) The distribution network operator is obligated to allow other undertakings to use its physical infrastructure, above all power poles, for the installation of an electronic communications network that offers broadband access services with a speed of at least 30 megabits per second. The distribution network operator has a right to recover the direct cost of offering access to its physical infrastructure, above all the cost of repairs and of the elimination of malfunctions.

(2) The rules for the filing of application with the distribution network operator and for disposing of such application, as well as the grounds for refusing to grant the application and the rules for resolution of disputes are provided by Chapter 6¹ of the Building Code.
[RT I, 25.01.2017, 1 – entry into force 01.03.2017]

Subchapter 3 Charges for Network Services

§ 71. Network charges

(1) The charges payable for network services provided by a network operator (hereinafter, 'network charges') are as follows:

- 1) a charge for connection to the network (hereinafter, 'connection charge');
 - 2) a charge for amendment of the conditions of consumption or generation (hereinafter, 'charge for amendment of conditions');
 - 3) a charge for ensuring the possibility to use a network connection (hereinafter, 'charge for using a network connection');
 - 4) a charge for the transmission of electricity (hereinafter, 'transmission charge');
 - 5) charges for any additional services directly related to network services;
 - 6) charges for reactive power supplied to the network and acquired from the network.
- [RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(2) A network operator establishes network charges in its service area in accordance with this Act and the legislation enacted under it.

(3) The criteria adopted by a network operator as the basis for establishing network charges must be transparent and comply with the principle of equal treatment.

(4) When setting the rate of the network charge, a network operator observes Regulation (EU) 2019/943 of the European Parliament and of the Council and the requirements provided by Annex XI of Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, pp. 1–56), and has regard to need to ensure the security of supply, to achieve efficiency and to integrate markets as well as to the results of the research conducted in the relevant field.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5) The rate of network charges must be established such that they ensure, on a consistent basis:

- 1) coverage of the necessary variable and operating costs;
- 2) investments to meet operating and development obligations;
- 3) compliance with environmental requirements;
- 4) compliance with quality and safety requirements;
- 5) a justified return on the capital invested by the undertaking.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(5¹) Calculation of the justified return mentioned in clause 5 of subsection 5 of this section is based on the capital invested by the undertaking and on the price of weighted average capital.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

4) it possible for a network operator to perform the obligations arising from legislation and fulfil the conditions of the authorisation, and to ensure a justified return on invested capital.

(6) A network operator sets the transmission charge such that it guarantees, to market participants who have paid a connection charge and a charge for use of the network connection, the possibility of transmitting electricity throughout the entire system.

(7) Network charges may differ from one network operator to another.

(8) The network charges of the transmission network operator must be sufficient to allow the operator to administer and, with a view to meeting the obligations imposed by law, to develop the data exchange platform mentioned in § 42¹ and the comparison tool meeting the requirements provided by subsection 3 of § 82¹ of this Act.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(9) Any costs related to the use and coordination of the flexibility services mentioned in § 662 as well as any justified costs related to use of the ancillary services mentioned in § 663 of this Act are included in the network operator's operating costs and are taken into account when setting network charges.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(10) The transmission charge provided for by clause 4 of subsection 1 of this section does not apply to the feeding back into the network of electricity stored during a storage period.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 72. Principles for calculating network charges

(1) Within the service area of a network operator, the transmission charge and the charge for the use of a network connection do not depend on the location of the market participant.

(2) A network operator has a right to distinguish the network charge for a network service from other conditions for the provision of the network service in relation to the level of voltage and the security of supply, in accordance with the relevant provisions of this Act.

(2¹) Where a network operator has infringed the quality requirements for the provision of network services, such an operator is required to reduce the network charges for those services according to the requirements established in legislation enacted under subsection 5 of § 65 of this Act.

[RT I 2004, 86, 583 – entry into force 01.01.2005]

(3) A network operator has a right to distinguish categories of market participants and to apply different network charges and other conditions for the provision of network services for such categories in accordance with the relevant provisions of this Act.

(4) The Competition Authority elaborates and publishes uniform methods, based on the weighted average cost of capital, for the calculation of the network charges mentioned in clauses 3–5 of subsection 1 of § 71 of this Act and uses these as the basis when approving the network charges of network operators. The methods applied by the Competition Authority must have regard to the provisions of this section and of § 71.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(5) In order to reduce regional price differences that result from differing network charges, measures of support may be implemented under a resolution of the Government of the Republic to support a network operator or consumers.

(6) Calculation of the price of the network charges mentioned in clauses 3–5 of subsection 1 of § 71 of this Act is based on the average sales quantity of the last three calendar years. Where this is necessary, additional analysis is performed to ascertain the sales quantity.

(7) The price does not include the following expense items:

- 1) the expense of claims that are unlikely to be paid;
- 2) sponsorships, gifts and donations;
- 3) costs that are not connected to the provision of the network service;
- 4) any fines or late charges imposed on the undertaking under applicable legislation;
- 5) financial charges as a separate cost component, which are taken into account when calculating the price of weighted average capital;
- 6) other costs that are not required in order to perform the obligations imposed on the undertaking by legislation.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(8) Any costs to be included in the price must be justified and reflect a cost-effectiveness based approach and must make it possible for the undertaking to perform the obligations provided for by legislation. Justified operating costs are evaluated based on the following principles:

- 1) observation of the dynamic of the cost over time and its comparison with the dynamic of the consumer price index;
- 2) analysis of the justification of cost components together with expert assessments;
- 3) comparison of the undertaking's costs and of the statistical indicators calculated based on those costs to the costs of other similar undertakings.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(9) When calculating the justified return and the depreciation of fixed assets to be included in the price, only the fixed assets required for provision of the network service are taken into account. The following are excluded from such assets:

- 1) long-term financial investments;
- 2) intangible assets, except software licences and rights of use of property;
- 3) fixed assets acquired in the framework of unrecoverable assistance and targeted financing;
- 4) fixed assets acquired for connection fees;
- 5) fixed assets that the undertaking does not use for the provision of the network service.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(10) The accounting of the value of fixed assets is performed on a continuous basis and continues through any change of the undertaking or of the form of asset ownership.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(11) Justified return is calculated based on the principle according to which the value of the fixed assets required for the provision of the network service, plus the operating capital component, is multiplied by the price of weighted average capital.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(12) The rate of the component of operating capital amounts to five per cent of average turnover for the last three calendar years. Where this is necessary, additional analysis is performed to ascertain the operating capital component.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(13) For costs to be included in the price, justified investments and outlays that have been made for realising energy savings at the final consumer level are taken into account in the amount of up to one per cent of the average sales income for the last three calendar years, provided the following conditions have been met:

- 1) as a result of the investments and outlays, energy savings are realised at the final consumer within the meaning of clause 21 of § 3 of the Energy Sector Organisation Act;
- 2) such energy savings have previously been evaluated in accordance with the regulation enacted under subsection 1 of § 18 of the Energy Sector Organisation Act;
- 3) by 1 April each year, in accordance with the regulation enacted under subsection 1 of § 18 of the Energy Sector Organisation Act, the undertaking assesses the energy savings realised as a result of the actions performed during the last three calendar years and presents a report regarding that assessment to the energy savings coordinator within the meaning of the Energy Sector Organisation Act.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(14) Calculation of the depreciation of fixed assets is based on the value of the fixed assets required for provision of the network service and of the standard depreciation rate corresponding to the useful technical life of those assets.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 72¹. Revenue generated by allocations of cross-border capacity

(1) Any revenue that the system operator receives from allocations of cross-border capacity between Members States of the European Union and third countries, including allocations under multilateral contracts by the system operators, is not included in the justified sales revenue based on which the system operator's network charge is calculated.

(2) The system operator uses the revenue mentioned in subsection 1 of this section to cover the cost of investments related to synchronising Estonia's power system with the Central European frequency area. In its financial accounting, the system operator keeps separate accounts concerning the revenue and its use.

(3) When the cost of investments mentioned in subsection 2 of this section has been covered, the remainder of the revenue mentioned in subsection 1 of this section is charged to the system operator's justified sales revenue.

(4) By 31 July each year, the system operator presents to the Competition Authority a report in which it shows:
1) the amount of the revenue that is mentioned in subsection 1 of this section and that has been earned during the calendar year preceding presentation of the report;
2) particulars concerning the cost of investments made, or intended, during the preceding calendar year under subsection 2 of this section.

[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 73. Approval of network charges and standard terms and conditions

(1) A network operator obtains approval from the Competition Authority for methods for the calculation of network charges mentioned in clauses 1 or 2 of subsection 1 of § 71 of this Act, for network charges mentioned in clauses 3–6 of that subsection 1 and for standard terms and conditions for the provision of network services. The requirement for approval does not apply to the transmission charge for the transit of electricity. When approving network charges, the Competition Authority, among other things, has regard to the provisions of §§ 40, 44, 59, 71 and 72 of this Act and to the relevant standard terms and conditions of the network operator.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The Competition Authority does not grant approval to standard terms and conditions if their substance does not reflect the balance of rights and obligations of the network operator and a user of network services which was the basis for approval of the network charge or if a standard term or condition is unfairly prejudicial the other party within the meaning of the Law of Obligations Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) A network operator has a right to apply for the Competition Authority's approval of different network charges collectively as well as separately and the Competition Authority is obligated to dispose of such applications in accordance with this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) A network operator charges a fee for the network services it provides; the charge is calculated based on the relevant network charges approved by the Competition Authority. This provision does not apply to connection to the network, amendment of the consumption or generation conditions or the transmission of electricity in the case of transit.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) Subsections 1–4 of this section are applied in respect of a network operator who provides network services through a closed distribution network if this is demanded by a commercial consumer whose electrical installation is connected to such a network.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 74. Provision and publication of information

(1) A network charge established by a network operator becomes effective on the date determined by the network operator after its publication in at least one daily newspaper of national circulation, provided that at least ninety days have passed since its publication. This provision does not apply to the connection charge, the charge for the amendment of conditions and the transmission charge for the transit of electricity.

(2) A network operator publishes a notice concerning amendment of the standard terms and conditions for the provision of its network services or concerning the establishment of new standard terms and conditions in at least one daily newspaper of national circulation and at least thirty days before the amendments or new standard terms and conditions become effective.

(3) On a corresponding application of a market participant, the network operator provides such a participant with information concerning the rates of the network charges and the standard terms and conditions for the provision of network services which apply in its service area.

(4) A network operator notifies the European Commission and the Competition Authority without delay of any demand for transmission of electricity by transit that is based on an electricity sale contract concluded for a period exceeding one year.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) Having received a corresponding application, the network operator commences, without delay, negotiations over the conditions for the transmission of electricity by transit and notifies the European Commission and the Competition Authority if the negotiations do not lead to conclusion of a contract within twelve months following the filing of the application.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) Information required for efficient access to and use of the network is provided by the network operator on the operator's website or, on a corresponding enquiry by a market participant, in the form determined by the operator.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

Chapter 6¹

SUPPORT FOR PAYMENT OF CONNECTION CHARGE

[Repealed -RT I, 30.06.2015, 4 - entry into force 01.09.2015]

§ 74¹. – 74¹⁴.

[Repealed -RT I, 30.06.2015, 4 - entry into force 01.09.2015]

Chapter 6²

ANCILLARY ACTIVITIES OF NETWORK OPERATORS

[RT I, 15.03.2022, 2 - entry into force 25.03.2022]

§ 74¹⁵. Electric vehicle recharging point

(1) A distribution network operator engages in cooperation with any undertaking that owns, develops, operates or manages an electric vehicle recharging point.

(2) A distribution network operator may own, develop, operate or manage an electric vehicle recharging point exclusively for its own use or if the all of the following conditions are fulfilled:

- 1) the Competition Authority has approved the conditions of the public auction mentioned in subsection 5 of this section;
- 2) the attempt to sell the recharging point to another person by means of a public auction has failed;
- 3) the operator ensures, on an equal footing, access to third parties to the electric vehicle recharging point that belongs to it.

(3) At least after every five years, a distribution network operator arranges a public consultation to assess the possible interest of other parties to acquire, develop, operate or manage a recharging point for electric vehicles – or a set of such points – that does not meet the conditions provided by subsection 2 of this section.

(4) If, as a result of a public consultation mentioned in subsection 3 of this section, it emerges that there are persons who are interested in acquiring, developing, operating or managing a recharging point for electric vehicles – or a set of such points –, the distribution network operator arranges a public auction to sell such a point or a set of such points within six months following the emergence of the results of the consultation.

(5) The distribution network operator obtains the approval of the Competition Authority for the conditions of the public auction mentioned in subsection 4 of this section. The Authority may, when deciding whether to approve the conditions, take into consideration the residual value of any investments made in the recharging point for electric vehicles, or in a set of such points.

(6) The Minister in charge of the policy sector enacts, in the network code on the functioning of the electricity market, rules for the public auction mentioned in subsection 4 of this section.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 74¹⁶. Energy storage unit

- (1) A network operator may not own, develop, operate or manage an energy storage unit.
- (2) In order to sell an energy storage unit that belongs to it, a network operator arranges a public auction and obtains the Competition Authority's approval for the conditions of such an auction.
- (3) As a derogation from subsection 1 of this section, a network operator may own, develop, operate or manage an energy storage unit if it constitutes a fully integrated network component or if all of the following conditions have been fulfilled:
 - 1) an attempt to sell the energy storage unit by way of the public auction mentioned in subsection 2 of this section was not successful;
 - 2) the operator needs the unit for the efficient, reliable and secure functioning of the network and the unit will not be used for purchasing or selling electricity in the electricity market, including for balancing purposes.
- (4) To use the derogation provided by subsection 3 of this section, a network operator needs a decision by the Competition Authority.
- (5) Where a derogation is granted to the transmission network operator, the Competition Authority notifies the Agency for the Cooperation of European Energy Regulators, stating the particulars of the application and the reasons for granting the derogation.
- (6) At least after every five years, the Competition Authority holds a public consultation to assess the potential preparedness and interest of other parties to acquire, on conditions provided by subsection 3 of this section, an energy storage unit belonging to the network operator.
- (7) Where it emerges, as a result of a public consultation mentioned in subsection 6 of this section, that there are persons mentioned in that subsection, the network operator holds a public auction within 18 months following the end of the consultation to sell the energy storage unit belonging to it.
- (8) Subsections 6 and 7 of this section do not apply to fully integrated network components and to any energy storage units that include a battery, if such units:
 - 1) are integrated into the network;
 - 2) are used exclusively in the case of network emergencies, with restoration commencing without delay when the emergency is discovered and ending immediately when the emergency can be eliminated by ordinary redispatching;
 - 3) are not used for purchasing or selling electricity in the electricity market.
- (9) The Minister in charge of the policy sector enacts, in the network code on the functioning of the electricity market, rules for the public auction mentioned in subsection 2 of this section.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

Chapter 7 SALE

§ 75. Sale arrangements

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 75¹. Invoice presented to the consumer

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

- (1) The seller presents an invoice for the electricity consumed to the consumer once a month, unless agreed otherwise with the consumer. The following information is presented together with the invoice:
 - 1) [Repealed – RT I, 12.07.2014, 3 – entry into force 01.07.2015]
 - 2) the proportion of electricity purchased from a power exchange in the financial year preceding the period of the sale;
 - 3) a reference to a website which provides information concerning the environmental impact caused by emissions of CO₂ and SO₂, the oil shale ash that must be deposited, and radioactive waste, which were released in the course of producing the electricity supplied by the seller during the financial year preceding the period of the sale;
 - 4) information concerning the consumer's rights and the options for resolution of disputes;
 - 5) starting 1 April, the volume of electricity which was supplied in the previous calendar year and whose origin was certified by means of guarantees of origin;
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]
 - 6) the volume of supplied electricity whose origin is not certified by means of guarantees of origin, using the residual mix value published by the transmission network operator.
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(1¹) When, following the rules provided by the grid code, the network operator rectifies the measurement data of a market participant on the data exchange platform, the seller presents a rectifying invoice to the market participant, stating the reason for rectification on the invoice.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) Where a consumer decides to change the seller, the seller presents its final invoice to the consumer within six weeks following termination of the contract for the sale of electricity. If, after the final invoice has been presented, a fault of the metering system is discovered or the data that have been filed differ from those of actual consumption, the consumer's metering data are rectified on the data exchange platform and the seller presents an invoice to rectify the final invoice.

(3) No additional fee is charged for presenting the invoice.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4) The seller undertakes to employ the services of an auditor to ensure that the invoice issued to the consumer for the electricity supplied, and any other advertising materials that are mentioned in subsection 1 of this section and that are disseminated by the seller, reflect the correct distribution of the energy sources used in the generation of electricity during the financial year that preceded the period of the sale. The role of the auditor is to verify whether the volume of renewable energy used (a percentage value) stated by the seller in the information it presents to the consumers is supported by guarantees of origin that have been notified to the transmission network operator as guarantees of origin used for certifying to the consumers the origin of the electricity supplied.
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

§ 76. Selling obligation

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 76¹. Universal service

(1) A small consumer has a right to purchase electricity from the network operator to whose network their electrical installation is connected, for a price which is reasonable and justified and which conforms to the principle of equal treatment (hereinafter, 'universal service').

(2) A network operator provides universal service itself or, where it does not engage in the sale of electricity, conducts a public procurement procedure to find a seller who possesses a relevant authorisation to provide that service, without giving preference to any undertaking associated to it.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(3) Where a network operator does not itself provide universal service, such an operator publishes on its website the name and contact information of the seller who provides that service in the operator's service area and provides that information to any person who demands it.

(4) It is not obligatory to provide universal service to a consumer whose network contract, which was concluded under § 83 of this Act, has been cancelled on a ground provided by this Act.

(5) Where a small consumer has not concluded an electricity contract under § 83 of this Act with any seller of electricity, such a consumer is provided universal service as of the day following the day of termination of their electricity contract.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012, applicable since 1 January 2013.]

§ 76². Standard terms and conditions of universal service

(1) A network operator or a seller designated by the network operator obtains the approval of the Competition Authority for their standard terms and conditions of universal service. The Competition Authority does not approve such standard terms and conditions if a standard term contravenes this Act or if the content or manner of expression or of presentation of the term is unusual or difficult to understand within the meaning of subsection 3 of § 37 of the Law of Obligations Act, or if the term is unfairly prejudicial to the other party within the meaning of § 42 of that Act.

(2) A network operator and the seller designated by the network operator publish on their website the standard terms and conditions mentioned in subsection 1 of this section and provide information concerning these to any person who demands it.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012, subsection 2 applicable since 1 January 2013.]

§ 76³. Price of electricity sold under the rules of universal service

(1) The provider of universal service calculates the price, for a given calendar month, of electricity sold under the rules of universal service based on the weighted average of the hourly amounts of electricity sold under such rules in that calendar month correlated with the hourly prices of electricity published at the power exchange. Justified costs related to the provision of universal service and a reasonable operating margin are added to the price calculated according to this method.

(1¹) The provider of universal service calculates the price, for the calendar month, of electricity sold under the rules of universal service to a customer receiving that service such that it adds, to the production cost applicable during that month, the justified cost of provision of the service and a reasonable business profit. The provider publishes the price on its website.

[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

(2) The provider of universal service calculates the charge for the universal service based on metered amounts of electricity consumption. Where the network operator does not possess metered data concerning a small consumer's consumption of electricity during the previous calendar month, the operator makes an estimate of the amount of electricity required for the provision of universal service based on a consumption schedule. Where accurate information is subsequently received, and where the estimated amount differs from the metered amount, the network operator sets off the account on the invoice for the next month.

(3) The provider of universal service publishes, on its website, by the ninth day of the following month, the price of electricity sold under the rules of universal service together with the data and method of calculation used to arrive at the price.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012, applicable since 1 January 2013]

(4) The rules for setting off amounts of electricity consumed under the rules of universal service, for the exchange of information in relation to universal service and for providing information to small consumers are established in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 76⁴. Sale of electricity in micro isolated networks

(1) Once a month at the latest on the 15th day of the month the distribution network operator in whose service area the micro isolated network is located presents to the producer subject to the production obligation mentioned in § 55¹ of this Act the data concerning the quantity of electricity taken from the network and the quantity of electricity fed into the network separately for each open supplier holding an open supply contract.

(2) If the total quantity of electricity taken from the network and of electricity fed into the network at all metering points of the market participants of the micro isolated network is greater than zero, the open supplier that concluded electricity sale contracts with those participants purchases electricity from the producer subject to the production obligation.

(3) If the total quantity of electricity taken from the network and of electricity fed into the network at all metering points of the market participants of the micro isolated network is less than zero, the producer subject to the production obligation purchases electricity from the open supplier that concluded electricity sale contracts with the market participants of the micro isolated network.

(4) The charge for the electricity mentioned in subsections 2 and 3 of this section is calculated based on hourly rates of the power exchange.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 76⁵. Provision of universal service

(1) A seller of electricity may provide universal service. The service is provided with the consent of the service consumer and under an agreement concluded with the consumer concerning provision of the service. Until 31 December 2022, the seller is obligated, and subsequently has a right, to conclude, with a consumer with whom it has an electricity contract that is in effect and to whom it has sold electricity at a price that exceeds the universal service price, a contract for the provision of the service without a corresponding application of the consumer, notifying this to the consumer at least seven days before the contract enters into effect. The seller disseminates information concerning provision of the service through its website.

(2) The consumer has a right to refuse to conclude the contract for provision of universal service, notifying this to the seller of electricity at least two days before the contract's entry into effect.

(2¹) A seller of electricity who provides universal service has a right to propose, to a commercial consumer of universal service with whom it holds an electricity contract which is in effect and the price of the electricity sold to whom exceeds the universal service price, to conclude a contract for the provision of universal service, communicating this to the consumer at least seven days before the entry into effect of the potential universal

service contract. The consumer must express their consent to receive universal service by communicating this to the seller that made the proposal at least two days before the entry into effect of the contract.

[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

(3) A seller of electricity that belongs to the same group with a producer mentioned in subsection 1 of § 76⁶ of this Act, or holds a market share of at least 50% in the sale of electricity within the territory of Estonia, is obligated to provide universal service.

(4) In addition to the approved production price mentioned in subsection 1 of § 76⁶ of this Act, the universal service price includes the seller's justified costs that are incurred in relation to provision of the service, and a reasonable business profit.

(5) A seller of electricity who purchases electricity from a producer mentioned in subsection 1 of § 76⁶ of this Act at the approved production price may use that electricity strictly to provide universal service.

(6) The Competition Authority may verify whether the universal service price meets the requirements provided by subsection 4 of this section.

(7) For the purposes of the verification provided for by subsection 6 of this section, the seller of electricity who is mentioned in subsection 1 or 3 must, when required to do this by the Competition Authority, explain and justify the principles for setting the universal service price. When verifying the price, the Authority may enlist the assistance of independent experts.

(8) The Competition Authority issues a compliance notice to a seller of electricity to amend the universal service price such that it meets the requirements provided by subsection 4 of this section. The seller is obligated to comply with the notice within two days following its entry into effect.

(9) Where the seller of electricity has not complied with the compliance notice issued by the Competition Authority within the time limit provided by subsection 8 of this section, or does not amend the universal service price such that it meets the requirements provided by subsection 4, the Authority may impose, on the seller, a temporary price of universal service.

(10) The temporary price imposed by the Competition Authority continues to apply until the seller of electricity mentioned in subsection 1 or 3 of this section amends the price of its universal service such that it meets the requirements provided by subsection 4.

(11) When imposing the temporary price provided for by subsection 9 of this section, the Competition Authority has regard to the requirements provided by subsection 4. The Authority may, when imposing the temporary price, also have recourse to data that are available to it from previous proceedings or that are publicly available.

[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

§ 76⁶. Approval of the production cost of electricity sold to provide the universal service

(1) A producer whose generating installation has a capacity that equals or exceeds 150 MW is obligated to sell electricity, for the purpose of provision of universal service, on equal terms, to a seller of electricity or to a network operator who sells electricity under the rules of universal service, or to a seller designated by that operator, at a price that has been approved by the Competition Authority (hereinafter, 'production price'). The electricity contract concluded for complying with the obligation to sell electricity may stipulate the compensation, to the producer or seller, of the difference between the price of the universal service and the price of the electricity purchased for sale to a consumer of that service, should the price of the electricity transmitted and sold to such a consumer differ from the production price. The obligation to sell electricity for provision of universal service arises when the Competition Authority has approved the production price under subsection 4 of this section, or has established a provisional production price for the producer under subsection 6 of this section.

(2) The production price is set such as to ensure, for the provision of universal service:

- 1) the covering of the necessary operating costs;
- 2) investments for fulfilling the operating and development obligations;
- 3) compliance with environmental requirements;
- 4) compliance with quality and safety requirements;
- 5) a justified return.

(3) The production price is calculated based on at least 3 of the most cost-efficient generating installations operating on the fluidised bed technology, having regard to the price-setting principles provided by subsections 7–12 and 14 of § 72 of this Act. Where the producer employs, for electricity generation, any fuels that are produced by itself or by an undertaking that belongs to the same group with the producer, the Competition

Authority has a right to verify whether the production price of those fuels is justified, similarly to the principles governing the setting of the production price of electricity used for provision of universal service.

(3¹) If the generation capacity of the generating installation mentioned in subsection 3 of this section is not sufficient to supply commercial consumers of universal service, calculation of the production price for such consumers is also based on other installations that belong to the producer. In such a situation, the price of universal service is calculated separately for the household and commercial consumers of universal service.
[RT I, 22.10.2022, 4 – entry into force 23.10.2022, applies until 01.01.2024]

(4) A producer mentioned in subsection 1 of this section is obligated to file, with the Competition Authority, an application for approval of the production price at the latest on the day following commencement of generation by the generating installation mentioned in subsection 1. Within 30 days following reception of the application, the Authority approves the price or, stating the corresponding reasons, refuses to approve it. Where the application is particularly complex or requires particularly extensive work, the Authority may extend the time limit by 60 days.

(5) Where the costs incurred in relation to electricity generation have changed compared to the previous approved production price, the producer mentioned in subsection 1 of this section, without delay, files a new application for approval of the production price with the Competition Authority. When considering the application, the Authority observes the time limits provided by subsection 4.

(6) In the course of consideration of the application for approval provided for by subsections 4 and 5 of this section, the producer mentioned in subsection 1 of this section must, when required to do so by the Competition Authority, explain and justify the principles for setting the production price. When considering the application, the Authority may enlist the assistance of independent experts

(7) Where the seller of electricity has not filed an application for approval within the time limit provided by subsection 4 of this section or the Competition Authority refuses to approve the production price or the price does not meet the requirements mentioned in subsection 2, the Authority may impose, on the producer mentioned in subsection 1, a temporary production price.

(8) The temporary price imposed by the Competition Authority continues to apply until the producer mentioned in subsection 1 of this section obtains the Authority's approval for the production price of electricity.

(9) When imposing the temporary price provided for by subsection 7 of this section, the Competition Authority has regard to the principles provided by subsections 2 and 3. The Authority may, when imposing the temporary price, also have recourse to data that are available to it from previous proceedings or that are publicly available.

(10) The Competition Authority may issue, to the producer mentioned in subsection 1 of this section, a compliance notice to amend the selling price of electricity sold for provision of universal service such that the price corresponds to the production price.

(11) A producer mentioned in subsection 1 of this section draws up standard terms for contracts for the sale of electricity under the rules of universal service and publishes these on its website.

(12) The Minister in charge of the policy sector may enact, in the network code governing the functioning of the electricity market, principles for the standard terms mentioned in subsection 11 of this section.
[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

§ 77. Disclosure of information on seller

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 78. Performance of selling obligation

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 79. Unbundling of selling obligation

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 80. Standard terms and conditions applicable to selling obligation

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 81. Price of electricity sold within framework of selling obligation

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 81¹. Filing of data with Statistics Estonia

An electricity undertaking files the data concerning the setting of the price of electricity or of network services to Statistics Estonia according to the rules established in the Official Statistics Act.
[RT I 2010, 41, 241 – entry into force 01.08.2010]

§ 81². Preservation of data

A seller preserves, for at least five years from conducting the transaction, the following data – to be presented the Competition Authority and the European Commission, if required – concerning all electricity transactions with another seller and with the transmission network operator, as well as concerning all transactions based on derivatives within the meaning of points 5–7 of Part C of Annex I of Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments and amending Directives 2002/92/EC and 2011/61/EU (OJ L 173, 12.06.2014, pp. 349–496) which are related to electricity and whose underlying asset is electricity:

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

- 1) the date of the transaction and the terms and conditions of supply and of payment;
- 2) the amount of the transaction;
- 3) the date and time that the transaction was performed, by trading period;
- 4) the price of the transaction;
- 5) the particulars of the buyer;
- 6) details concerning supply agreements.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 81³. Database of wholesale energy market transactions

[Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 82. Import of electricity

(1) Electricity may be imported by the system operator or by a power exchange trader. A power exchange trader may only import electricity for sale at the power exchange.

(2) A power exchange trader who intends to import electricity may require the system operator to provide an assessment regarding whether the intended import of electricity is permissible considering the technical parameters of the system.

(3) An importer of electricity who is not a balance provider enters into an open supply contract with a balance provider in order to maintain its balance.

(4) The system operator has a right to restrict or interrupt the import of electricity if this is required by the technical limitations of the system or the need to ensure the security of supply.

(5) The system operator may refuse to provide network services for the import of electricity if the importer of electricity fails to comply with the requirements established in the legislation concerning the import of electricity.

(6) Every three months, the system operator transmits to the European Commission information concerning the amounts of electricity actually fed into the system from third countries.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

§ 82¹. Comparison tool

(1) Household consumers and companies that have fewer than 10 employees and whose annual balance sheet volume does not exceed two million euros, whose estimated annual electricity consumption is less than 100,000 kWh must have access to at least one trustmarked tool by which they can compare sellers' offers.

(2) The seller notifies the consumer on the electricity sales invoice of all available trustmarked comparison tools created by the system operator.

(3) A comparison tool must meet the following requirements:

- 1) it is independent of market participants and ensures equal treatment of electricity undertakings;
- 2) it provides clear information on the party operating and on the party verifying the tool, as well as on the source of funding for the creation and operation of the tool;
- 3) it lays out clear and objective criteria for its comparisons of offers;
- 4) it states information in clear and unambiguous wording;
- 5) it provides precise and up-to-date information and states the time of its last update;

- 6) it is also accessible to disabled persons;
- 7) it allows the operator to be notified, in an efficient manner, of any incorrect information displayed by the tool;
- 8) it limits its queries for personal data to those that are required in order to compare the offers.

(4) The Competition Authority issues a trust mark to a comparison tool that meets the requirements provided by subsection 3 of this section.

(5) The Competition Authority conducts periodical verifications to ascertain whether a trustmarked comparison tool continues to meet the requirements provided by subsection 3 of this section.

(6) The Minister in charge of the policy sector enacts, in the network code on the functioning of the electricity market, the information that a seller must transmit to the operator of a trustmarked comparison tool created by the system operator – by the method and by the due dates required by the operator of the tool.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

Chapter 8

CONTRACTS

§ 83. Application of provisions

(1) The provisions of this Chapter apply to contracts which are made with a network operator for connection to its network and for amending the consumption or generation conditions (hereinafter, ‘connection contracts’), to contracts which are made for the provision of any other network services (hereinafter, ‘network contracts’) as well as to electricity contracts and a contract concluded for aggregation (hereinafter, ‘aggregation contracts’).

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) Derogation from the provisions of this Chapter is permitted by agreement of the parties. Any agreement to make a derogation which is detrimental to an individual consumer is void.

(3) To the extent not regulated by this Act, connection contracts, network contracts, electricity contracts and aggregation contracts are subject to the provisions of the Law of Obligations Act.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 84. Form of contract

(1) Electricity contracts may be made by oral agreement. If a party to an electricity contract so demands, the contract is made in writing, in a form reproducible in writing or in an electronic form.

(2) Connection contracts, network contracts and aggregation contracts are made in writing, in a form reproducible in writing or in electronic form.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(3) A network operator may enter into separate network contracts with consumers regarding different network services.

(4) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(5) A customer and an active user of network services have a right to conclude an aggregation contract without the consent of the seller of electricity. With respect to the conclusion of an aggregation agreement, the aggregator files a notice with the system operator following the method provided by the network code on the functioning of the electricity market.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 85. Provision of information

(1) Prior to entering into a connection contract, network contract, electricity contract or aggregation contract, the party to the contract who is a natural person and a consumer must be provided with information concerning the principal terms and conditions of the contract as well as concerning any possible alternatives in terms of its substance – to the extent and following the rules corresponding to the obligation to provide pre-contractual information as required by the Law of Obligations Act or any other Act of the *Riigikogu*.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) [Repealed – RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(3) If, by agreement with a network operator, a seller also arranges settlement of accounts for the network services provided by the network operator under a network contract, the seller presents a separate invoice for the network services provided or distinguishes the relevant date related to network services in the invoice issued under the electricity contract.

§ 86. Written confirmation

(1) If an electricity contract is not made in writing, in a form reproducible in writing or in an electronic form, the distribution network operator or seller, having concluded the contract, sends a written document to the customer confirming the substance of the contract (hereinafter, 'written confirmation').

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) A written confirmation states the period of time during which the customer may file objections. Such a period must not be shorter than three weeks.

(3) During the period from the making of a contract to expiry of the period of time mentioned in subsection 2 of this section or until objections are filed within that period, the parties observe the terms and conditions stated in the written confirmation, unless agreed otherwise.

(4) In matters not regulated by this section, written confirmations are subject to the Law of Obligations Act.

(5) This section does not apply to customers who are natural persons.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 87. Terms and conditions of contract

(1) A connection contract, network contract, electricity contract or aggregation contract that is executed in writing or in a form reproducible in writing or in an electronic form includes the following information:

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

1) the name, registration number in the Commercial Register or the personal identification number, address and email address of the network operator in the case of a network or connection contract or of the network operator or seller in the case of an electricity contractor or the aggregator in the case of an aggregation contract;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

2) a description of the services provided under the network, connection or aggregation contract or the principal parameters of the electricity sold under the electricity contract;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

3) the principal parameters of the quality of the services provided under the network, connection or aggregation contract or a reference to a document which is accessible and which states such parameters;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

4) the time of initial connection to the network under a connection contract concluded for connection to the network or for modification of the consumption or generation conditions;

5) a description of the maintenance services provided;

6) the method by which relevant information may be obtained concerning the charges payable under the contract;

7) the conditions for amendment of the contract and of the conditions for the provision of services under the contract, and the conditions for cancellation of the contract, including the conditions for cancelling the contract without charge;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

8) if the services provided under a network or connection contract do not conform to the terms and conditions of the respective contract, information concerning the way in which the consumer may obtain a refund or compensation, by means of a payment or by other means;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

8¹) where delivery of an invoice presented under a network or electricity contract is delayed, or where an incorrect invoice is presented due to an error of the network operator or seller, or where an advance payment has been made by the consumer, information concerning the way in which the consumer may obtain a refund, set-off, payment of compensation or compensation by other means;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

8²) where charges are payable under a contract, at least two different payment options;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

9) information concerning the rules for dealing with complaints;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

10) in the case of a network or electricity contract, the contract period.

(2) Where an electricity contract has not been concluded in writing, in a form reproducible in writing or in an electronic form, the information mentioned in subsection 1 of this section is provided in the written confirmation to be issued by the distribution network operator or seller under § 86 of this Act. The information is issued to a customer who is a natural person according to the rules provided by the Law of Obligations Act.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(3) No fee may be charged for conclusion of an electricity or aggregation contract from a household customer or from a company that has fewer than 50 employees and whose annual turnover and balance sheet volume do not exceed 10 million euros.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4) A consumer who joins universal service and a consumer of universal service have a right to cancel the electricity contract, giving at least seven days' advance notice of the cancellation.

[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

(5) The seller of electricity may not require the consumer who terminates universal service to pay the contractual penalty triggered by premature termination of the electricity contract, or to compensate the seller for harm suffered.

[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

§ 88. Validity and period of contract

(1) A network contract, electricity contract or aggregation contract may be made for an unspecified or for a specified period. A connection contract is made for establishing a network connection as defined in the contract or for modification of the consumption or generation conditions of an existing network connection, and terminates when it has been performed.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) An electricity contract which is made for an unspecified period terminates with the termination of the network contract concluded in respect of the network connection through which electricity was sold under the electricity contract.

(3) An electricity contract may be concluded by a market participant who holds a valid network contract in respect of the metering point of his place of consumption.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4) A seller of electricity or an aggregator makes it possible for a customer to conclude a contract for the sale of electricity free of charge or a contract for the sale of electricity for a specific period subject to premature cancellation for a fee.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5) A seller of electricity or an aggregator may charge a household customer a fee for the premature termination of an electricity or aggregation contract concluded for a specific period, provided the fee has been agreed in the contract concluded with the customer and the customer was clearly notified of the fee prior to conclusion of the contract. A premature termination fee must be justified.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 89. Amendment of contract

(1) The network operator may unilaterally amend the standard terms and conditions of a network contract and the network operator or a seller designated by the network operator may unilaterally amend the standard terms and conditions of universal service if such amendments are objectively justified and necessary in order to take into account a change in the circumstances and provided the amendments have been approved by the Competition Authority. The Competition Authority does not accept any amendments to standard terms and conditions if the substance, wording or presentation of a standard term or condition is uncommon or unintelligible within the meaning of subsection 3 of § 37 of the Law of Obligations Act or if a standard term or condition is unfairly prejudicial to the other party within the meaning of § 42 of that Act.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) A network operator may unilaterally amend the network charge or any other charge stipulated in the network contract if such an amendment has been approved by the Competition Authority.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(3) The amendment of the standard terms and conditions mentioned in subsection 1 of this section applies to all contracts which are valid at the time of amendment and which are concluded subsequently.

(4) A network operator or seller notifies its consumers prior to modifying the terms and conditions of their contract. The notification states the envisaged amendments, the grounds for those amendments and the date on which they are intended to take effect, as well as information concerning the fact that a consumer has a right to cancel the contract if they do not accept the modifications.

(5) The notification mentioned in subsection 4 of this section is provided to a consumer together with the invoice presented to them at least thirty days before the envisaged amendments are to take effect.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(6) [Repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 90. Interruption of network connection for reasons due to the consumer

(1) The network operator may interrupt the consumer's connection to the network if the consumer has failed to pay the amount payable for the network service or universal service provided to the consumer or for the open

supply provided by the network operator to the consumer in the event of an interruption in the open supply chain, or if the consumer has otherwise materially breached an obligation arising from the network contract.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) Before interrupting the network connection on the grounds mentioned in subsection 1 of this section, a notice concerning the interruption is sent to the consumer at the address of the place of consumption or the address stated in the contract. The notice states the grounds for interrupting the network connection, the scheduled time of the interruption and information regarding the rights of the consumer and the options available for the resolution of disputes.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(3) To a customer who is a natural person, the notice mentioned in subsection 2 of this section is transmitted in writing to a contact address provided by the customer.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4) The network connection of the consumer may be interrupted provided the consumer has failed to eliminate the circumstances which serve as grounds for the interruption, or fails to notify the network operator of the elimination, within fifteen days after the notice mentioned in subsection 2 of this section was sent.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(5) Where the failure of an individual consumer to pay an amount payable for the network service or universal service provided to them is due to their temporary insolvency which was brought about as a result of a serious illness or loss of employment, the consumer may notify the network operator of such circumstances in writing. The corresponding notification must include evidence certifying the circumstances.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(6) After receiving the notification and the evidence mentioned in subsection 5 of this section, the network operator may interrupt the network connection of an individual consumer provided the consumer has failed to eliminate the circumstances which serve as grounds for the interruption, or fails to notify the network operator of the elimination, within 30 days after the notice mentioned in subsection 2 of this section was sent.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(7) If an individual consumer has failed to pay the amount charged for the network service or universal service provided to the consumer, that consumer's network connection may, during the period from 1 October to 30 April and in a building or part of a building which constitutes a dwelling and which is used as a permanent residence and heated exclusively or primarily by electricity, or in which the use of electricity is unavoidable for the functioning of the heating system that exclusively or primarily uses another fuel source, be interrupted provided the consumer has, within 90 days after the notification mentioned in subsection 2 of this section was sent, failed to eliminate the circumstances which serve as grounds for the interruption, or fails to notify the network operator of the elimination.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(8) It is not contrary to subsection 7 of this section for the network operator to install and use a special protective device to limit the capacity of the network connection of a consumer if the consumer has failed to pay the amount payable for the network service or universal service provided to that consumer, or has otherwise materially breached an obligation arising from the network contract. The consumer is given at least 15 days' notice of such a limitation following the rules provided by subsections 2 and 3 of this section.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(9) It is not contrary to subsections 1–7 of this section for the network operator to interrupt, without delay, the network connection of a consumer if the consumer:

1) increases, without permission, the capacity limited following the rules provided by subsection 8 of this section;

2) uses electricity or network services unlawfully within the meaning of § 68 of this Act;

2¹) feeds electricity into the network without a contract concluded with the network operator;
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) uses electrical installations which do not meet established requirements, which are dangerous or which interfere with the functioning of the network as a whole or which jeopardise the security of supply.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(10) Interruption of the network connection on the grounds mentioned in this section does not release the customer from the obligation to pay the charges stipulated in the connection contract, electricity contract, network contract or aggregation contract.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(11) The network operator has a right to demand reimbursement from the consumer for justified costs incurred in implementing the measures provided for by this section.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(12) The provisions of subsections 1, 2 and 8–11 of this section also apply to interruption of a network connection and limitation of the capacity of the network connection of a producer, line possessor or another network operator.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(13) The provisions of this section also apply in situations in which electricity is conveyed and sold in accordance with clause 1 or 2 of subsection 6 of § 15 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 91. Cancellation of network contract

(1) A network operator may cancel a network contract and disconnect the place of consumption from the network if:

1) the network connection has been interrupted by the network operator due to a breach of the network contract and the interruption has lasted at least 180 consecutive days and the other party to the contract has failed, during that period, to eliminate the circumstances which served as grounds for the interruption and has not commenced consumption of electricity;

2) the other party to the contract has materially breached the obligations arising from the network contract and has failed to remedy the breach within a reasonable period of time granted by the network operator, in view of which the network operator cannot reasonably be expected to continue performing the contract.

(2) A network operator has a right to cancel a network contract for failure to pay an amount payable under the contract concluded with the network operator or seller only on the grounds provided by clause 1 of subsection 1 of this section.

(3) A network operator provides at least thirty days' notice of the cancellation of a network contract. The notice states the grounds for the cancellation and the date of termination of the contract.

(4) To a customer who is a natural person, the notice mentioned in subsection 3 of this section is transmitted in writing to a contact address provided by the customer.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4¹) A network operator may cancel the network contract before the agreed due date or before the notice period mentioned in subsection 3 of this section has expired, if the place of consumption stipulated in the contract has been the subject of a transfer of property and there is no legal basis for the consumer to use that place.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4²) The distribution network operator whose service area includes an immovable that the operator owns, and who terminates its operations within the meaning of subsection 9 of § 65 of this Act and wishes to continue to convey and sell electricity on the conditions provided for by clause 1 of subsection 6 of § 15 to a consumer located on that immovable, may cancel the network contract concluded with that consumer provided a corresponding arrangement has been reached.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) A person who has concluded a network contract with a network operator may not cancel the contract if a valid electricity contract concluded with another person exists in respect of the network connection that is the subject matter of the network contract and if the other person has not concluded a network contract regarding the network connection.

(6) A consumer may cancel a network contract made for a specified or unspecified period provided they give at least 30 days' notice of the intention to cancel. This provision does not apply in a situation mentioned in subsection 5 of this section.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(7) Any agreement which derogates from the provisions of this section is void.

§ 92. Cancellation of electricity contract

(1) A seller has a right to cancel an electricity contract if:

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

1) the consumer has materially breached obligations arising from the contract and has not remedied the breach within a reasonable period of time granted by the seller;

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

2) [repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

3) the consumer has used electricity unlawfully or has intentionally or due to gross negligence damaged the seals or verification marks placed on the metering devices;

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

4) [repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(3) A consumer must be notified of the cancellation of an electricity contract at least thirty days in advance. The notification states the grounds for cancellation of the contract and the date of its termination.

(4) To a customer who is a natural person, the notice mentioned in subsection 3 of this section is transmitted in writing to a contact address provided by the customer.
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4¹) A seller may cancel an electricity contract before the agreed due date, or before the notice period mentioned in subsection 3 of this section has expired, if the place of consumption stipulated in the contract has been the subject of a transfer of property and there is no legal basis for the consumer to use that place.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(6) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

Chapter 8

1 BUILDING A WIND POWER PLANT ON A PUBLIC WATER BODY

[Repealed -RT I, 27.04.2022, 1 - entry into force 07.05.2022]

§ 92¹. Superficies licence

[Repealed – RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 92². Persons to hold a right to build a wind power plant on a public water body

[Repealed – RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 92³. Amount of superficies charge for a wind power plant built on a public water body

[Repealed – RT I, 27.04.2022, 1 – entry into force 07.05.2022]

Chapter 8²

COOPERATION MECHANISM FOR PROMOTING THE PRODUCTION OF RENEWABLE ENERGY

[RT I, 29.06.2018, 2 - entry into force 09.07.2018]

§ 92⁴. Statistical transfers of energy

(1) The State may carry out statistical transfers of energy produced from a renewable energy source to another Member State of the European Union and conclude, for that purpose, the relevant agreements, having regard to the obligation of achieving the proportion, in the final consumption, of energy produced from a renewable energy source as provided for by Directive 2009/28/EC of the European Parliament and of the Council.

(2) The agreement is notified to the European Commission at the latest three months after the end of the year during which that agreement is in effect. The relevant notification must include information concerning the amount of statistically transferred energy that was the subject of the agreement, the particulars of the parties to the agreement and the cost of the agreement. The statistical transfer of energy takes effect after notification has been made to the European Commission.

(3) The transmission network operator transmits to the Minister in charge of the policy sector the information required for concluding the agreement.

(4) The sums paid under the agreement by another Member State of the European Union are received by the transmission network operator and are, except where the agreement on the cooperation mechanisms of renewable energy provides otherwise, deducted from the cost of funding, in the next calendar year, the transmission network operator's support to be awarded under subsection 4 of § 59² of this Act for electricity produced from a renewable energy source and for electricity produced in a high-efficiency cogeneration process.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 92⁵. Cooperation projects with other Member States

(1) Energy that has been produced from a renewable energy source by a new generating installation that is located in Estonia and that, for the first time, commenced operation after 25 June 2009, or that has been produced by capacity that was added after 25 June 2009 as a result of renovation of a generating installation located in Estonia, may be subtracted from the amount of energy produced from a renewable energy source that is taken into account when assessing attainment of the objectives provided in respect of Estonia in Annex I of Directive 2009/28/EC of the European Parliament and of the Council, and added to the amount of energy produced from a renewable energy source that is taken into account when assessing attainment of the objectives provided by the same Annex in respect of the other Member State participating in the cooperation project.

(2) Generating installations that may not participate in cooperation projects are:

- 1) installations that produce electricity for which the producer is paid the support provided by this Act for electricity produced from a renewable energy source;
- 2) installations that produce electricity for which the producer, for the period provided by § 108 of this Act, has been paid the support provided by this Act for electricity produced from a renewable energy source;
- 3) installations for the building or renovation of which the State has granted the producer investment support that the owner of the installation does not reimburse to the State.

(3) The cooperation project may not interfere with the attainment of the proportion of energy produced from a renewable energy source as provided by Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

(4) The producer notifies its wish to participate in a cooperation project to the Ministry of Economic Affairs and Communications. The notification must contain:

- 1) a description of the envisaged or renovated generating installation, or of a generating installation undergoing renovation;
- 2) the name of the other Member State of the European Union that participates in the cooperation project and the contact details of the competent authority;
- 3) the time period in calendar years during which the amount of energy that is produced from a renewable energy source and that constitutes the subject of the cooperation project is to be added to the amount of energy produced from a renewable energy source that is taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council;
- 4) the amount of energy produced from a renewable energy source by a generating installation mentioned in clause 1 of this subsection, as an absolute value by calendar years or as a proportion of the energy that is produced by means of that generating installation and that is taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council;
- 5) where this is possible, confirmation by the competent authority of the other Member State of the European Union, as mentioned in clause 2 of this subsection, to the effect that that Member State agrees to the content of the notification and wishes to present to the European Commission the joint notice mentioned in subsection 6 of this section on the conditions indicated in that notification.

(5) In cases where this is justified, the Minister in charge of the policy sector may demand supplementary particulars in addition to the particulars provided for by subsection 4 of this section.

(6) After it has received the notification mentioned in subsection 4 and the supplementary particulars mentioned in subsection 5 of this section, the Minister in charge of the policy sector makes a proposal to the competent authority of the relevant Member State of the European Union to present to the European Commission a joint notice, containing the particulars provided by subsection 4, with respect to the cooperation project.

(7) If the Member State of the European Union agrees to the proposal mentioned in subsection 6 of this section, or has agreed to the content of the proposal in accordance with clause 5 of subsection 4, the Minister in charge of the policy sector, together with the competent authority of the relevant Member State, presents to the European Commission a joint notice, containing the particulars provided by subsection 4, with respect to the cooperation project.

(8) The support provided by this Act for electricity produced from a renewable energy source will not be paid for the amount of energy that is to be added to the amount of energy produced from a renewable energy source which will be taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

(9) Within three months after the end of each calendar year falling in the period mentioned in clause 3 of subsection 4 of this section, the Minister in charge of the policy sector notifies to the European Commission and to the Member State mentioned in clause 2 of subsection 4 the amount of energy produced from a renewable energy source by the generating installation mentioned in clause 1 of subsection 4 during the last calendar year, and the amount of energy that is to be added to the amount of energy produced from a renewable energy source which will be taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

Chapter 9

REGULATORY ENFORCEMENT

§ 93. Regulatory enforcement

[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

(1) Regulatory enforcement of compliance with this Act and the legislation enacted under it, including the functioning of the electricity market and the activities of market participants is carried out by the Competition Authority.

(2) The Competition Authority co-operates with the Agency for the Cooperation of Energy Regulators of the European Union (hereinafter, 'the Cooperation Agency') and other regulatory authorities of its Member States. Where this is needed, the Competition Authority enlists independent experts to assist it in its enforcement work, and co-operates with other Estonian regulatory enforcement authorities.

(3) The Competition Authority is independent in its exercise of the functions entrusted to it by virtue of this Act.

(4) Enforcement of the provision of network services, of offers or sale of electricity or of making electricity available in the market by other methods is exercised by the Consumer Protection and Technical Regulatory Authority within the scope of the competence vested in it by the Consumer Protection Act.

[RT I, 12.12.2018, 3 – entry into force 01.01.2019]

(4¹) Enforcement of the requirements provided by § 21² of this Act is exercised by the Rescue Board.

[RT I, 10.11.2016, 1 – entry into force 01.01.2017]

(5) Where a dispute which the parties have been unable to settle has arisen in relation to a connection contract, network contract, electricity contract or aggregation contract, the customer has a right to file a complaint with the Consumer Disputes Commission or another person or institution which deals with similar complaints, or with the court.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(6) In addition to what has been provided for by subsection 1 of this section, the Competition Authority performs the following functions in relation to regulatory enforcement:

1) verifying compliance with the conditions provided by Regulation (EU) 2019/943 of the European Parliament and of the Council and in Commission regulations enacted under that Regulation;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

1¹) scrutinising compliance with Regulation (EU) No 1227/2011 of the European Parliament and of the Council;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2) the monitoring of investments in production capacity and, having regard to considerations of security of supply, where necessary, requiring the system operator to arrange a competitive tendering process mentioned in subsection 4¹ of § 4 of this Act;

3) monitoring and verifying the holding of a competitive tendering process provided for by subsection 4¹ of § 4 of this Act;

3¹) approves the conditions of public procurement procedures mentioned in subsection 1 of § 66² and subsection 2 of § 66³ of this Act;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

3²) periodically verifies whether a comparison tool meets the requirements presented in subsection 3 of § 82¹ of this Act;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

4) resolving disputes between market participants following the rules provided by this Act;

5) disseminating through its website the network operators' network charges that it has approved in accordance with this Act;

6) issuing decisions of approval in accordance with this Act;

7) verifying whether the distribution network operator complies with the requirements provided by § 18 of this Act;

8) scrutinising the justifications for the costs that are mentioned in subsection 4 of § 59² of this Act and that were incurred by the transmission network operator;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

- 9) verifying whether the price of the electricity sold in the framework of the open supply mentioned in subsection 4² of § 44 of this Act is justified;
- 10) verifying the information that is provided by the seller to the consumer under § 75¹ of this Act;
- 11) verifying whether the price of electricity sold under the rules of universal service complies with § 76³ of this Act;
- 12) verifying the issue, transfers and validity of the guarantees of origin mentioned in § 58¹ of this Act;
- 13) verifying the prices of balancing electricity set by the system operator;
- 14) verifying whether the transmission charges applied by the network operator for the transit of electricity, as well as the operator's connection charges and charges for the amendment of conditions are in conformity with §§ 71–73 of this Act;
- 15) in its annual report, stating its opinion regarding the report formulated by the system operator in accordance with subsection 7 of § 39 of this Act, taking into account whether the report of the system operator is in conformity with the Community-wide network development plan mentioned in subparagraph (b) of paragraph 3 of Article 30 of Regulation (EU) 2019/943 of the European Parliament and of the Council, and issuing recommendations concerning amendment of the system operator's investment plan, if needed;
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]
- 16) monitoring technical cooperation between the transmission network operators of the Member States of the European Union and of third countries;
- 17) engaging in cooperation with counterpart authorities of other Member States in order to link up the data exchange platforms of the electricity market of the region;
- 18) monitoring the situation concerning market opening and competition, including the prices on the power exchange and the prices set for household consumers, and publish, at least once a year, recommendations concerning the setting of the prices of electricity sold to household consumers;
- 19) monitoring the time that it takes network operators to build connections and to perform repairs;
- 20) monitoring the level of transparency of the electricity market, including the transparency of wholesale prices in the electricity market;
- 21) ensuring that no cross-subsidisation occurs between the activities of transmission, distribution and sale;
- 22) ensuring that no anti-competitive contractual practices are engaged in, including the prohibition to purchase the fixed supply from several sellers at the same time;
- 22¹) watches out to ensure that no obstacles or limitations are established by market participants regarding consumption of self-generated electricity and the development of energy communities;
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]
- 22²) elaborates the conditions for participation in operations of demand response mentioned in subsection 3 of § 21⁴ of this Act;
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]
- 23) ensuring that consumers are granted speedy access to their consumption data without charge;
- 231) monitors and assesses the performance of the transmission network operator and of distribution network operators in developing the smart grid which is defined in point 7 of Article 2 of Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) 715/2009 (OJ L 115, 25.04.2013, pp. 39–75), and which promotes energy efficiency and the integration of renewable energy sources, and publishes on its website, after every two years, a report concerning the results of the assessment together with recommendations;
[RT I, 15.03.2022, 2 – entry into force 25.03.2022]
- 24) in order to perform its functions, and without prejudice to its independence and specific competence, engaging in cooperation with the transmission network operator and, should this be needed, with other relevant authorities. No approval issued by the Competition Authority in accordance with this Act in any way limits the Authority in the subsequent exercise of its powers;
- 25) presenting to the European Commission a report on market dominance among electricity undertakings and on predatory and other anti-competitive behaviour, changes in ownership, measures taken to enhance competition, and the potential effects on domestic and international competition of the measures taken to comply with the obligation of providing universal service;
- 26) notifying the European Commission of the decision to issue the authorisation to the transmission network operator, and publishing that decision in the Official Journal of the European Union;
- 27) annually compiling, publishing on its website and transmitting to the European Commission, to the energy regulators of the Member States and to the Cooperation Agency a report on the measures implemented to perform the functions of the Competition Authority and on the results that those measures have attained;
- 28) in accordance with Article 3 of Regulation No. 256/2014 (EU) of the European Parliament and of the Council, transmitting to the European Commission the information mentioned in subsection 5 of § 19 of this Act;
- 29) disseminating through its website information concerning the rights of consumers, the relevant legislation and the possibilities of dispute resolution.

(7) The Competition Authority decides on an application for approval filed with it in accordance with this Act within 90 days following the filing of the application. When processing a particularly complex application or an application that involves a considerable amount of work, the Competition Authority may extend this time limit to 180 days. The person who filed the application must be notified of extension of the time limit before expiry of the initial time limit.

(8) The running of the time limit provided by subsection 7 of this section is suspended until such time as the information that the Competition Authority has demanded and that is necessary for deciding on the application is presented to the Authority.

(9) In situations where the network charge is not justified or the network charge has not been set and the network operator does not comply with the compliance notice issued by the Competition Authority, the Competition Authority may establish temporary network charges or a temporary methodology of calculating network charges. The network charges or methodology for calculating network charges established by the Competition Authority remain in force until such time as the network operator obtains, in accordance with § 73 of this Act, the approval of the Competition Authority for the new network charge. The surplus profits which the network operator earned while applying the unjustified network charge are, taking into account the network operator's ability to continue as a going concern, deducted from its justified sales revenue on the next occasion, or if necessary, also subsequent occasions of approving network charges.

(10) The Competition Authority compiles and publishes on its website by 31 July each year an overview concerning the previous calendar year which reflects the following:

- 1) the rules of allocation of capacity of intersystem connections;
- 2) the rules for resolving congestions in the system;
- 3) the time spent on construction and repair of cross-border interconnectors;
- 4) the information published by network operators concerning cross-border interconnectors and distribution of the capacity of the network, taking into account the need to maintain business secrets;
- 5) the unbundling of activities mentioned in § 16 of this Act;
- 6) the connection conditions established for new producers;
- 7) the performance of obligations by the system operator and network operators;
- 8) the competition situation in the electricity market.

[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

(11) Where no agreement is reached concerning matters that pertain to a closed distribution network, an energy community or an active user of network services and that fall under the Law of Obligations Act, these matters will be disposed of following the rules provided by the Code of Civil Procedure or the Consumer Protection Act.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 94. Special measures of regulatory enforcement

[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

(1) When carrying out the regulatory enforcement tasks provided by this Act, the Competition Authority may use the special measures of regulatory enforcement provided by §§ 30, 50 and 51 of the Law Enforcement Act on the grounds and following the rules provided by that Act.

(2) When carrying out the regulatory enforcement tasks provided by this Act, the Rescue Board may use the special measures of regulatory enforcement provided by §§ 30, 32, 49, 50 and 51 of the Law Enforcement Act on the grounds and following the rules provided by that Act.

[RT I, 10.11.2016, 1 – entry into force 01.01.2017]

§ 94¹. Functions of Competition Authority in assessing compliance with established requirements of incumbent transmission system operator

(1) The Competition Authority monitors compliance of the transmission system operator with the requirements established in § 18¹ of this Act and, under § 26¹, undertakes an assessment of such compliance when:

- 1) it has received a notice mentioned in subsection 4 of § 16 of this Act;
- 2) it has become aware that an envisaged change in the rights or influence of a person who enjoys control over the transmission system operator may result in infringement of the requirements established in § 18¹ of this Act or when it has reason to believe that such an infringement has already taken place;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

- 3) it has become aware of circumstances which permit a citizen of a third country or a legal person incorporated and registered in a third country to acquire control over the transmission system operator;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

- 4) the European Commission has filed a reasoned request.

(2) The Competition Authority informs the European Commission without delay of any circumstances which permit a person from a third country to acquire control over the transmission system operator, and of the fact that the transmission network owner or transmission network operator controlled by a person from a third country has applied for the authorisation mentioned in clause 3 of subsection 1 of § 22 of this Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(3) Where an assessment of compliance with established requirements is initiated in respect of the transmission network operator under circumstances mentioned in clause 3 of subsection 1 of this section, the Competition Authority requires the operator to provide evidence showing that the activity of the operator or of the person controlling the operator does not jeopardise the security of supply of the Republic of Estonia or the European Union.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4) In assessing the security of supply mentioned in subsection 3 of this section, the Competition Authority takes into account:

- 1) the rights and obligations which the European Union has in respect of the relevant third country and which emanate from international law, including a security of supply arrangement which has been agreed with one or more third countries and which the European Union is a party to;
- 2) the rights and obligations which the Republic of Estonia has in respect of the relevant third country and which emanate from any arrangements entered into with the third country as long as they do not conflict with the law of the European Union;
- 3) other circumstances related to the assessment of compliance with established requirements and to the relevant third country.

(5) If the Competition Authority makes a negative decision in respect of the assessment of the compliance with established requirements that has been initiated under circumstances mentioned in clause 3 of subsection 1 of this section and that decision differs from the opinion of the European Commission, the Competition Authority publishes its decision in the Official Journal together with the reasons for the decision and with the opinion of the European Commission.

[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

§ 94². Special rules regarding regulatory enforcement

The Competition Authority may, under the conditions provided by § 50 of the Law Enforcement Act, only enter the market participant's premises, rooms or civil engineering works.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 95. Compliance notice

(1) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(3) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) In the event of failure to perform an obligation imposed by a compliance notice, a compliance levy may be imposed following the rules provided by the Substitutional Performance and Compliance Levies Act. The upper limit for such a levy is 1,300 euros. In the event of failure to comply with the requirements established in § 18¹ of this Act, the upper limit for a compliance levy applied in respect of the transmission network operator is nine million euros, and the total amount of compliance levies which may be imposed in order to achieve the goal prescribed in the compliance notice may not exceed nine million euros.

[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 96. Obligation to provide information

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 97. Obligation to maintain confidentiality of information

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 98. Right of access

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 99. Resolution of complaints

(1) A market participant may file a written complaint with the Competition Authority against the action or omission of another market participant which is in conflict with this Act or the legislation enacted under it.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The Competition Authority reviews a complaint mentioned in subsection 1 of this section and makes a decision on it within thirty days following receipt of the complaint. Where the complaint is filed in respect of a network operator, the Competition Authority makes its decision within 60 days following receipt of the complaint.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(3) Where the Competition Authority requests information necessary for resolving a complaint, the run of the time limit mentioned in subsection 2 of this section is suspended until receipt of such information, but not for longer than thirty days. Where the complaint has been filed in respect of a network operator, the Competition Authority may suspend the time limit for up to 60 days, provided the complainant agrees to this.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 100. Acquisition of property in the public interest

(1) In addition to the grounds provided by subsection 1 of § 3 of the Immovables Expropriation Act, the Competition Authority may demand:

[RT I 2007, 66, 408 – entry into force 01.01.2008]

1) expropriation of the assets used in the activity mentioned in the authorisation, if the person operating on the basis of the authorisation fails to comply with the compliance notice instructing them to continue the activity;
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

2) expropriation of the assets used in the activity mentioned in the authorisation, if the period of validity of the authorisation has expired or the authorisation has been revoked and there is no guarantee that the operations carried out based on those assets will continue to be in compliance with this Act, which may possibly endanger the security of supply of the system;

3) expropriation of the network and the limited real right which grants the person the use of the network, if the owner of the network fails to perform the obligation provided by subsection 1 of § 64 of this Act or if the network operator who owns or uses the network does not hold the authorisation required under this Act.

(2) The Competition Authority may demand expropriation on the grounds provided by subsection 1 of this section only if it has given advance notice of its intention to demand expropriation to the owner of the assets which are the subject matter of the envisaged expropriation and if the owner of the assets has failed to eliminate the circumstances which serve as grounds for the expropriation within a reasonable period of time set by the Competition Authority.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The Competition Authority does not have the obligation provided by subsection 2 of this section if performance of the obligation may endanger the security of supply.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) Expropriation is carried out under the rules provided by the Immovables Expropriation Act.

§ 100¹. Regulating cross-border exchanges in electricity

(1) The Competition Authority co-operates and exchanges information that is needed for performance of the functions provided by this Act with regulatory authorities of the Member States of the European Union and with the Co-operation Agency in order to:

- 1) facilitate optimum administration of the network;
- 2) promote the establishment of a common power exchange;
- 3) optimise the distribution of cross-border capacities;
- 4) by mutual connection of networks, achieve such a level of capacity which allows to promote competition and improve the security of supply, at the same time avoiding unequal treatment of market participants;
- 5) coordinate the elaboration of grid and network codes;
- 6) coordinate the elaboration of congestion management requirements;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

7) coordinate joint monitoring of units that perform tasks on a regional level;

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

8) coordinate joint monitoring of assessments of the adequacy of regional and European resources.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(2) The Competition Authority uses the information to be exchanged with the same degree of confidentiality to which that information was subjected by the authority that provided it.

(3) The Competition Authority may request the opinion of the Cooperation Agency concerning conformity, to Directive (EU) 2019/944 of the European Parliament and of the Council and to Regulation (EU) 2019/943 of the European Parliament and of the Council, of a decision taken by a regulatory authority of another Member State of the European Union with regard to cross-border exchanges in electricity.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(4) In the case that a decision made by a regulatory authority of another Member State regarding cross-border exchanges in electricity is incompatible with the requirements provided by Directive (EU) 2019/944 of the European Parliament and of the Council and in Regulation (EU) 2019/943 of the European Parliament and of the Council, the Competition Authority has a right to notify this to the European Commission within two months following the day the decision was made.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(5) If the European Commission should require that a decision of the Competition Authority concerning cross-border exchanges in electricity be set aside for reasons of incompatibility with Directive (EU) 2019/944 of the European Parliament and of the Council or Regulation (EU) 2019/943, the Competition Authority complies with the requirement within a period of two months and notifies the Commission of having complied with its decision.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 100². Competence of the Competition Authority in relations with the regional coordination centre

(1) In relations with the regulatory authorities of the system operation area, the Competition Authority is competent to:

- 1) approve a proposal for the establishment of the regional coordination centre in accordance with paragraph 1 of Article 35 of Regulation (EU) 2019/943 of the European Parliament and of the Council;
- 2) take into account – when approving the network charges mentioned in § 71 of this Act – any justified costs that are related to the work of the regional coordination centre and that must be borne by the transmission network operator;
- 3) approve a decision-making process that is based on cooperation;
- 4) together with the regulatory authorities of the other Member States of the system operation area – make proposals concerning any supplementary tasks or powers that these countries should assign to the regional coordination centre;
- 5) verify the performance, by the regional coordination centre, of its obligations that flow from European Union law, especially in cross-border matters;
- 6) monitor the results of grid coordination and, once each year, in accordance with Article 46 of Regulation (EU) 2019/943 of the European Parliament and of the Council, provide a report concerning this to the Cooperation Agency.

(2) When performing the tasks mentioned in subsection 1 of this section, the Competition Authority has a right to:

- 1) require information from the regional coordination centre;
- 2) without prior notice, inspect the premises and buildings of the regional coordination centre;
- 3) in cooperation with other regulatory authorities of the system operation area, make binding decisions concerning the regional coordination centre.

(3) Where the seat of the regional coordination centre is the Republic of Estonia and the centre does not comply with an obligation that flows from Directive (EU) 2019/944 of the European Parliament and of the Council, from Regulation (EU) 2019/943 of the European Parliament and of the Council or from a legally binding decision of the Competition Authority or of the Cooperation Agency, the Competition Authority has a right to issue a compliance notice to the centre to comply with the obligation.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

Chapter 10 LIABILITY

§ 101. Breach of obligation to provide network services

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 101¹. Violation of quality requirements for network services provided

(1) Violation of the quality requirements for network services provided in the service area of a network operator by the network operator or failure to reduce network charges following a violation of those requirements, if reduction of the network charges is prescribed in this Act, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 101². Sale of electricity at unapproved ceiling prices or at prices exceeding the approved ceiling price

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 101³. Violation of the rules for cross-border exchanges in electricity

Failure by a legal person to comply with the conditions for cross-border exchanges in electricity provided in Regulation (EU) 2019/943 of the European Parliament and of the Council is punishable by a fine of up to 32,000 euros.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 101⁴. Violation of the requirements of wholesale energy market

(1) Failure to comply with the requirements established in Articles 3–5 of Regulation (EC) No 1227/2011 of the European Parliament and of the Council is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

§ 101⁵. Liability of the system operator and of a vertically integrated undertaking

Violation, by the system operator or a vertically integrated undertaking, of the requirements provided by subsections 1, 3 and 4 of § 16, in §§ 17 and 18¹, in subsection 3 of § 38, in subsections 1, 3¹, 4 and 6 of § 39, in subsection 7 of § 40 and in §§ 40¹, 53, 66, 70, 71, 72, 73 and 74 of this Act is punishable by a fine of up to ten per cent of the turnover of the undertaking for the last audited financial year.
[RT I, 30.06.2017, 2 – entry into force 10.07.2017]

§ 102. Unlawful use of network services and electricity

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 103. Failure to provide information

(1) Failure by a market participant to provide mandatory information to the Competition Authority or the system operator is punishable by a fine of up to 100 fine units.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1,300 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 104. Prevention of exercise of the right to access

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 105. Violation of obligation to maintain confidentiality of information

(1) Violation of the obligation to maintain the confidentiality of information as prescribed by this Act is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3,200 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 106. Proceedings

Out-of-court proceedings concerning any misdemeanours defined in this Chapter are conducted by the Competition Authority.
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

Chapter 11 IMPLEMENTING PROVISIONS

§ 107. Market licence and authorisation

(1) A market licence issued under the Energy Act to a network operator for the sale of electricity and for the sale of the services of electricity transmission and distribution through the network, as well as the contract concluded with the State in relation to the market licence remain in effect for the aforementioned areas of activity until the expiry date indicated in such a licence or contract.

(2) Market licences issued to a network operator under the Energy Act and contracts concluded with the State in relation to such licences become invalid in respect of electricity-related areas of activity not listed in subsection 1 of this section if an application that seeks the issue of an authorisation and that meets the requirements is not filed within the time limit provided by subsection 5 of this section or if the Competition Authority makes a decision refusing to grant the application. With the entry into force of this Act, all contracts concluded with the State by an undertaking that is not a network operator and market licences that have been issued to an undertaking that is not a network operator become invalid in respect of electricity-related areas of activity.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The market licence or contract concluded with the State which remains in effect in accordance with subsection 1 of this section is deemed an authorisation issued for the activities mentioned in clauses 2 and 6 of subsection 1 of § 22 of this Act. The market licence issued for the provision of transmission services through the transmission network and the contract concluded with the State in relation to such a licence is deemed an authorisation issued for the activity mentioned at clause 3 of subsection 1 of § 22 of this Act.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) If any condition of a market licence or a contract concluded with the State is contrary to this Act or the legislation enacted under it, the Competition Authority unilaterally varies the conditions of such a licence or contract within ninety days following the entry into force of this Act, in accordance with the provisions of this Act regarding the varying of the conditions of authorisations. Where any conditions of the licence or any clauses of the contract are contrary to this Act or the legislation enacted under it, until the conditions are amended by the Competition Authority, the provisions of this Act and of the legislation enacted under it apply in the stead of the corresponding conditions of the licence or clauses of the contract.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) If, at the time of entry into force of this Act, a market participant is engaged in an electricity-related area of activity not mentioned in subsection 1 of this section for which an authorisation is required under this Act, within 180 days following the entry into force of this Act, such a participant files with the Competition Authority an application that meets the requirements in order to obtain the corresponding authorisation.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) An authorisation for conveying electricity via a producer's line is deemed an authorisation for conveying electricity via a direct line.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(7) The transmission network operator brings its operations into conformity with the requirements established in § 18¹ of this Act by 1 May 2013 at the latest. An authorisation issued to the transmission network operator before 1 March 2013 remains valid until 1 March 2014 on the conditions stipulated in that authorisation.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

§ 107¹. Electricity contracts concluded under an obligation to sell

An electricity contract under a network operator's obligation to sell mentioned in subsection 1 of § 76 of the version of this Act which was in force through 31 December 2011 terminates on 31 December 2012.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 108. Eligibility period of support

(1) The support mentioned in subsection 2 of § 59 of this Act is paid for 12 years from commencement of generation, and the support mentioned in § 59⁴ for 12 years from commencement of generation by means of a new generating installation related to winning the reverse auction. Where the recipient of the support is a producer whose relevant generating installation has been used prior to the reverse auction to generate electricity from a renewable energy source, the support for winning such an auction is paid for up to two years from commencement of generation from such a source in relation to the auction. The support mentioned in § 59 is not paid for electricity generated from such a source by a generating installation that commenced operation before 1 January 2002.
[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(1¹) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1²) A producer who starts generation after 31 December 2010 with a generating installation that uses biomass as its energy source is eligible for the support mentioned in clause 1 of subsection 1 of § 59 of this Act only for electricity generated in a high-efficiency cogeneration process.
[RT I 2010, 8, 40 – entry into force 27.02.2010]

(2) A producer who uses wind as the source of energy and whose generating installation commenced operation before 31 December 2007 may sell the electricity produced by such installation as open supply to a seller designated by the transmission network operator at a price which is 115 cents for a kilowatt-hour until 31 December 2008.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

(3) For the purposes of this section, the day of commencement of production is deemed to be the day on which a generating installation that meets established requirements for the first time feeds electricity into the network or a direct line.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4) If the producer has received support under § 59 of this Act for electricity produced by a generating installation for 12 years and that installation is replaced by another generating installation, support will not be paid for the electricity generated by the other generating installation.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) If the producer is, at the latest on 31 December 2018, receiving support under § 59 of this Act for electricity produced by a generating installation, support under § 59 will be paid for the electricity produced by a generating installation replacing that installation until 12 years have passed since commencement of production by the replacing installation. Support for capacity that exceeds the capacity of the installation replaced is subject to support only in the event of winning the reverse auction in accordance with §§ 59⁴, 59⁵ or 59⁶ of this Act.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) If support has been paid under § 59 of this Act for electricity produced by a generating installation and, by the time of replacement, that generating installation is older than 25 years, support for electricity produced by the generating installation replacing the old installation, in the event of winning the reverse auction mentioned in §§ 59⁴, 59⁵ or 59⁶ of this Act, will be paid starting from commencement of electricity production by the new generating installation.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) For electricity produced by a supplementary generating installation intended for electricity generation and built as an add-on to an existing generating installation after 31 December 2018, provided the electrical installations of the existing and supplementary generating installations share the connection point with the network of the network operator, support is paid exclusively under §§ 59⁴, 59⁵ or 59⁶ of this Act. The building of the supplementary installation does not affect the payment of support for electricity produced to the extent of the capacity of the existing installation, or the period of payment of that support.
[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

(8) For electricity generated by the relevant generating installation of a producer that meets at least one of the conditions mentioned in subsection 2² of § 59 of this Act, or for a stage of the generating installation stipulated in the relevant connection contract, support is paid under § 59 for 12 years starting from commencement of generation by each installation, or by each stage of the installation.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(9) Participation in a reverse auction mentioned in § 59⁴ of this Act with a generating installation which is mentioned in clause 2 of subsection 5² of § 59⁴ and for electricity generated by which the producer has received the support mentioned in subsection 1 of § 59 for 12 years is possible when the installation, at the time the bid is made, is older than 20 years.
[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 108¹. Combining various measures of support

A producer whose power plant or generating installation consists of several electricity-producing electrical installations has a right to choose, separately for each electrical installation, whether, in respect of the electricity generated by that installation, the producer is paid support under the support measure established in § 59, 59⁴, 59⁵ or 59⁶, or under the cooperation agreement concluded under § 92⁵. The exercise of the right to choose is subject to the condition that the electricity produced by each installation be metered separately by a metering device that conforms to the requirements provided by legislation, and access to the metering data of which is ensured to the network operator, the transmission network operator and to the line possessor.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 108². Review of the rules provided by clauses 1 and 2 of subsection 5² of § 59⁴

At the latest by 1 January 2025, the Government of the Republic presents to the *Riigikoguan* analysis and, if needed, a proposal to repeal the reverse auction rules provided by clauses 1 and 2 of subsection 5² of § 59⁴ of this Act, having regard to their justifiability, going forward, in terms of achieving the aims regarding the generation of electricity from renewable energy sources.
[RT I, 22.10.2021, 1 – entry into force 01.11.2021]

§ 109. Implementation of measures of support

The measures of support mentioned in subsection 5 of § 72 of this Act may be implemented retroactively as of 1 January 2002.

§ 109¹. Application of support for connection charge

[Repealed – RT I, 30.06.2015, 4 – entry into force 01.09.2015]

§ 109². Application of §§ 75⁵ and 75⁶

(1) A seller of electricity who, at the time of entry into force of this section, meets the requirements provided by subsection 3 of § 76⁵ of this Act is obligated to provide universal service at the latest within five days from the entry into force of § 76⁵.

(2) A producer who, at the time of entry into force of this section, meets the requirements provided by subsection 1 of § 76⁶ of this Act is obligated to file, with the Competition Authority, an application for approval of the production price within three days from the entry into force of § 76⁶.
[RT I, 22.09.2022, 1 – entry into force 23.09.2022]

§ 109³. Requiring a household consumer who joins universal service to pay the contractual penalty or to compensate the seller for harm suffered

[RT I, 22.10.2022, 4 – entry into force 23.10.2022]

Until 30 September 2023, the seller of electricity may not require a household consumer who concludes an electricity contract for the provision of universal service to pay the contractual penalty triggered by premature termination of an electricity contract concluded before the entry into force of § 76⁵ of this Act, or to compensate the seller for harm suffered.

[RT I, 22.10.2022, 4 – entry into force 23.10.2022]

§ 110. Determination of service areas

(1) A network operator for the purposes of the Energy Act who, at the time of the entry into force of this Act, holds a valid market licence which has been issued under the Energy Act for the sale of electricity and/or the sale of electricity distribution services through a network makes a written application to the Competition Authority within 180 days following the entry into force of this Act to be assigned a service area. When making the application, such an operator must base it on the conditions of the market licence issued to it under the Energy Act, on the contract concluded with the State and on the actual situation in terms of the provision of network services. The application states a description and schematic layout of the service area in accordance with the requirements of subsections 1 and 3 of § 62 of this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) In the event of failure to perform the obligation mentioned in subsection 1 of this section, the Competition Authority issues a compliance notice to the network operator to obtain performance of the obligation and cautions the operator that, in the event of failure to comply with the notice, coercive measures may be imposed on the operator in accordance with the Substitutional Performance and Compliance Levies Act. The upper limit of the compliance levy is 1,300 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) Within 180 days following the due date for making an application mentioned in subsection 1 of this section, the Competition Authority assigns, as a single exercise, the service areas of distribution network operators based on their applications, having regard to the conditions of market licences issued to such operators, to the conditions of any contracts concluded with the State under the Energy Act, the actual situation in the provision of network services and the requirements established for distribution network operators and their operations by this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) If the service areas assigned under subsection 3 of this section do not cover the entire territory of Estonia, the Competition Authority designates the territory not covered by a service area as the service area of the distribution network operator whose service area is adjacent to such territory. In doing so, the Competition Authority has regard, among other things, to the location of the existing network in relation to the territory.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) The Competition Authority has a right to require electricity undertakings to provide it with the information needed for making the decisions provided for by this section.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) The Competition Authority informs the distribution network operators of the service areas assigned according to this section and, where this is needed, varies the conditions of the market licences of distribution network operators and of the contracts that such operators have concluded with the State, in accordance with the provisions of this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(7) The Competition Authority, without delay, provides notification to a network operator mentioned in subsection 1 of this section to whom the Authority has not assigned a service area under subsection 3 of this section, stating that a service area has not been assigned. The market licence of the network operator and the contract concluded with the State by the network operator become invalid when ninety days have passed from the dispatch of the notice stating that a service area has not been assigned.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(8) The Competition Authority has a right to impose an obligation on a network operator mentioned in subsection 7 of this section to continue its operations in accordance with § 37 of this Act and/or to undertake, in accordance with § 100 of this Act, expropriation of the network or of any other assets used by the network operator in the activity carried out under the market licence.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

§ 110¹. Recourse to universal service

(1) If a small consumer has not concluded an electricity contract with any seller of electricity by 1 January 2013, universal service is provided to the consumer starting from this date.

(2) Standard terms and conditions of universal service apply to all network contracts which remain effective after 1 January 2013.

(3) Section 76¹, subsection 2 of § 76² and § 76³ of this Act apply as of 1 January 2013.

(4) Prior to 1 January 2013, a network operator, when presenting an invoice to a consumer, also presents to the consumer information concerning standard terms and conditions of the universal service mentioned in subsection 1 of § 76² of this Act.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 111. Development plan for electricity sector

(1) The first development plan for the electricity sector mentioned in subsection 1 of § 2 of this Act is to be formulated and filed with the Government of the Republic by 1 June 2005.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

(2) The analysis mentioned in clause 5¹ of subsection 1 of § 2 of this Act is to be compiled for the first time in 2007.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

§ 111¹. Reports to the European Commission

(1) The system operator files the report mentioned in subsection 7 of § 39 of this Act every second year, not later than by 31 July. The first report is to be filed by 31 July 2007.

(2) The Competition Authority files the report mentioned in clause 25 of subsection 6 of § 93 of this Act by 1 September every year. After 2010, the report is filed every second year.
[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

§ 111². Special provisions governing applications for superficies licences

Where, on an application of the undertaking mentioned in § 92² of this Act, an environmental impact assessment has been undertaken before 1 January 2009 in order to build a wind power plant on a public water body, proceedings for granting a superficies licence are not subject to subsections 3–5 of § 219 of the Water Act and are initiated in respect of the undertaking who applied for the assessment.
[RT I, 22.02.2019, 1 – entry into force 01.10.2019]

§ 111³. Other implementing provisions

(1) Electricity undertakings are to bring their operations into compliance with the requirement provided by clause 8¹ of subsection 1 of § 87 by 1 November 2014 at the latest.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(2) Starting from 1 July 2015, the sellers include in their invoices the information mentioned in clauses 5 and 6 of subsection 1 of § 75¹ of this Act.
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(3) The condition provided by clause 4 of subsection 2 of § 59¹ of this Act applies to producers who commenced the production or feeding into the network or direct line of electricity after 31 December 2018.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(4) Contracts for the purchase of electricity concluded before 1 January 2018 in micro isolated networks between the producer subject to a production obligation and the distribution network operator are deemed effective until the date on which they expire.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) Subsection 1 of § 64 of this Act applies only if the network has been created before 1 July 2003.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) The authorisation issued in respect of the sale of electricity becomes invalid after presentation of the notice of economic activity conforming to § 22¹ of this Act.’

(7) The system operator creates a comparison tool mentioned in subsection 9 of § 39 of this Act by 1 September 2023 if, within one year following the entry into force of this subsection, none of the comparison tools in the market has received the trust mark issued by the Competition Authority.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(8) The distribution network operator must hold the public consultation mentioned in subsection 3 of § 74¹⁵ of this Act at the latest on 1 August 2022.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(9) The network operator must hold the public auction mentioned in subsection 2 of § 74¹⁶ of this Act at the latest on 1 August 2022.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

(10) Subsections 6 and 7 of § 74¹⁶ of this Act do not apply with regard to fully integrated network components and energy storage units that include a battery, provided such components or units were connected to the network, by the distribution network operator, at the latest on 4 July 2021 and, by the transmission network operator, at the latest on 31 December 2026.

[RT I, 15.03.2022, 2 – entry into force 25.03.2022]

§ 112.–§ 118.[Omitted from this text.]

§ 119. Entry into force of this Act

(1) This Act enters into force on 1 July 2003.

(2) Sections 15, 16 and 18 of this Act enter into force on 1 January 2005.

(3) Subsection 5 of § 4, subsection 6 of § 29, subsection 5 of § 70, subsection 4 of § 74 and subsection 5 of § 74 of this Act enter into force by virtue of a separate Act upon the accession of Estonia to the European Union.

(4) Subsections 6¹–6³ of § 58 of this Act enter into force on 1 May 2005.

[RT I 2004, 86, 583 – entry into force 01.01.2005]

¹Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.08.2009, pp. 55–93); Directive 2001/77/EC of the European Parliament and of the Council on the promotion of electricity produced from renewable energy sources in the internal electricity market (OJ L 283, 27.10.2001, pp. 33–40); in part Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 05.06.2009, pp. 16–62); Council Directive 90/377/EEC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (OJ L 185, 17.07.1990, pp. 16–24); Directive 2004/8/EC of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (OJ L 52, 21.02.2004, pp. 50–60); Directive 2005/89/EC of the European Parliament and of the Council concerning measures to safeguard security of electricity supply and infrastructure investment (OJ L 33, 04.02.2006, pp. 22–27); Directive (EU) 2019/944 of the European Parliament and of the Council on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ, L 158, 14.06.2019, pp 125–199). [RT I, 18.05.2022, 1 - entry into force 28.05.2022]